

**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND
JMFC., AT SORABA**

Present: Sri.Raju K Shedbalkar,
(B.Com.,LL.B.),
Prl. Civil Judge & JMFC., Soraba.

Dated this the 9th day of June, 2026

O.S.No.83/2026

Plaintiff : Naveen M.P

V/s.

Defendants : Niranjan M.P.

ORDER ON I.A.No. I

Opponents : Naveen M.P S/o Parameshwarappa M
Aged about 27 years,
R/o Thalluru Village, Soraba Taluk,
Shivamogga District.

(By Sri. M.V.D- Adv.)

V/s.

Applicants : Niranajan M.P S/o Parameshwarappa M
Aged about 29 years,
R/o Thalluru Village, Soraba Taluk,
Shivamogga District.

(Exparte)

**ORDER ON I.A.No.I FILED BY THE PLAINTIFF UNDER
ORDER XXXIX RULE 1 AND 2 R/W SECTION 151 OF CPC**

The present application filed by the plaintiff against the defendant seeking relief of order of temporary injunction

restraining the defendants, his well wishers, supporters, power of attorney holders or any one acting for and on his behalf restrained from entering into the suit schedule property, till disposal of the suit.

SCHEDULE

Property situated at Soraba Taluk, Anavatti Pattanan Panchayah, Thalluru, Ragavendra extention, 2nd cross, word no.11, bearing property no.2679036618, assessment no.279/280, Site no.49, consisting Mangalore tiled house measuring East-West 18.29 meters, X North-South 10.97 meters and consisting of a house measuring 121.22sq meters bound on,

on East by : Khata no.279/280, site no.50.

on West by : Pattana Panchayath Road,

on North by : Khata no.279/280, site no.50.

on South by : Khata no.279/280, site no.48.

2. The application annexed with an affidavit sworn by the plaintiff wherein it is stated that, the defendant is brother and plaintiff and defendant are the children of Parameshwarappa and Smt. Parvathi M.P. The father of plaintiff and defendant Sri. Parameshwarappa was died leaving behind the plaintiff and defendant and mother Smt. Parvathi M.P has his legal heirs. Thereafter, the plaintiff and defendant got divided the family properties under registered partition deed. Further it is averred that, under the registered partition deed the suit schedule

property along with other agricultural land has fallen to plaintiff share and both parties acted upon the said partition deed and got changed revenue entries in their names. Further, from the date of registration partition deed, the plaintiff in exclusive possession and enjoyment over the suit schedule property.

3. Further, the defendant is working as a Secretary in Haragi Grama Panchayath of Shikaripura Taluk and he is residing in a separate house and the defendant harassing the plaintiff to permit him to residing application schedule property with a malafide intention to take possession of the application schedule property and deny the lawful peaceful possession and enjoyment of the schedule property.

4. Further, the defendant being Government employee has the support of other government officials and will not hesitate to forcefully take possession of the schedule property and cause interfere in the lawful possession and peaceful enjoyment of the schedule property. He is acted of the defendant in restrained them the plaintiff will be put to irreparable loss and hardship. Hence, the plaintiff filed the instant suit along with this application, if the defendant is in restrained the plaintiff will be put grater hardship and irreparable loss injury. He will not able to protect lawful possession of the schedule property. On these grounds the plaintiff prays to allow the application.

5. In spite of service of summons, the defendant failed to appear before the court, Hence, placed *ex parte*.
6. Heard the arguments of plaintiff counsel.
7. The following points arise for the consideration of the court:-

POINTS

1. Whether the Plaintiff has made out a prima-facie case for grant of temporary injunction as sought for?
 2. Whether balance of convenience lies in favour of the Plaintiff?
 3. Whether the irreparable loss and injury would be caused to the plaintiff refusal of the temporary injunction?
 4. What order?
8. The findings on the above points are as hereunder:

Point No.1 : In the **Affirmative**.

Point No.2 : In the **Affirmative**.

Point No.3 : In the **Affirmative**.

Point No.4 : As per the final order for the following;

REASONS

9. **Point No.1 to 3:-** Since these points No.1 to 3 are interconnected with one another, hence, they are taken up together

for common discussion to avoid repetition of facts.

Admittedly, the plaintiff filed the present suit for the relief of permanent injunction against the defendant. It is specific averments of the plaintiff that, the plaintiff and defendant are the brothers and children of Sri. Parameshwarappa and Smt. Parvathi M.P. . After the death of plaintiff and defendant father they got partitioned their family properties on 04.12.2025 and the schedule property was allotted to the plaintiff and defendant without any right title interest over the suit schedule property disturbing his peaceful possession and enjoyment over the suit schedule property.

10. On going through the pleadings and materials available on record. It is not disputed that, the defendant is the brother of plaintiff, nature of the schedule property and schedule property is allotted to the plaintiff under the registered partition deed dated 04.12.2025. Further, perusal the Xerox copy of rent agreement. Further, the plaintiff has produced the form No.3 and other materials. Hence, at this stage, the plaintiff has made out prima facie case against the defendant by producing cogent and conveyancing documents which are standing in his name. While considering an application for grant of temporary injunction, right to need of respective parties should be considered and the schedule property should also to be protected and preserved so that, if ultimately, the plaintiff who is the initiator of the suit, succeeds in the suit he would not

put to irreparable and uncompensated loss and object is to keep the property to status-quo that it would be available to the plaintiff. If he utterly succeeds in the suit.

11. The plaintiff has prima facie case in his favour and at this juncture protect his right under such circumstances, balance of convenience lies in favour of plaintiff. If the injunction is not granted there are very chances that, the defendant may be interfered his peaceful possession and enjoyment over the suit schedule property. Therefore, considering all these aspects of the case and totality of the circumstances, the plaintiff has established the prima facie case in his favour. The plaintiff has also proved balance of convenience tilt in his favour. If the injunction is not granted, irreparable loss and injury will be caused to the plaintiff which cannot be compensated in terms of money. Hence, I answered Point No.1 to 3 are in the Affirmative.

12. **Point No.4:** For the above foregoing reasons and finding, I proceed to pass the following:

ORDER

I.A.No.I filed by the plaintiff U/O XXXIX Rule 1 and 2 R/w Sec.151 of Code Of Civil Procedure is hereby allowed.

The defendants, his well wishers, supporters, power of attorney holders or any one acting for and on his behalf restrained from interfering with the

plaintiff's peaceful possession and enjoyment over the suit schedule property in any manner, till disposal of the suit.

No order as to cost.

(Dictated to the Stenographer, typed and print out taken by her, corrected and pronounced by me in the open court on this the 9th day of June, 2026)

(RAJU K SHEDBALKAR)
Prl. Civil Judge & JMFC.,
Soraba.

(Order pronounced open Court vide
separate order)

ORDER

I.A.No.I filed by the plaintiff U/O
XXXIX Rule 1 and 2 R/w Sec.151 of
Code Of Civil Procedure is hereby
allowed.

The defendants, his well wishers,
supporters, power of attorney holders
or any one acting for and on his
behalf restrained from interfering
with the plaintiff's peaceful
possession and enjoyment over the
suit schedule property in any
manner, till disposal of the suit.

No order as to cost.

For compliance U/Sec.89 of C.P.C.

Call on 24.07.2026.

**Prl.Civil Judge & JMFC.,
Soraba.**