



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE AND
J.M.F.C., KUNIGAL.**

PRESENT:

Smt.Gangavva Ayatti., B.A., LL.B.(Hon's)
Addl. Senior Civil Judge & J.M.F.C.,
Kunigal

DATED THIS THE 7TH DAY OF AUGUST 2026

OS.No.384/2025

Plaintiffs : Vishwanath Kiran and another,
(By Sri. S.N., Advocate)

-V/s-

Defendants : H.M.Shivanna and others,
(D2 by Sri.C.G.,Advocate, proposed
defendants by Sri.B.S.P., Advocate and
D3, 5, 6 Exparte)

: IA No.II:

Applicant/Plaintiff: Vishwanath Kiran and another,

V/s

Opponents/defendants: H.M.Shivanna and others,

: IA No.III:

Applicant/Plaintiff: Vishwanath Kiran and another,

V/s

Opponents/defendants: H.M.Shivanna and others,



1.Provisions under which the application is filed	U/o XXXIX Rule 1 & 2 of CPC.
2.Relief Sought for :	Temporary injunction
3.The date on which the application is filed	24.09.2025 and 10.10.2025.
4. Number of the application :	I.A.No.II and III.
5.The date on which the objections are filed by different Opponents:	06.12.2025.
6.The date on which the orders were passed on the said application :	07.08.2026.

: ORDERS ON IA NO.II AND III:

The IA No.II is filed by the plaintiffs seeking an order of exparte injunction restraining the defendant No.2, their agents, servants, employees or anybody acting under him from alienating the suit schedule properties in any manner till disposal of the suit.

2. The IA No.III is filed by the plaintiffs U/o 39 Rule 1 and 2 of CPC seeking ad-interim order of injunction restraining the defendant No.2 from interfering, the alteration and putting up construction in the suit schedule properties till disposal of the suit.



3. In the annexed affidavit the plaintiff contended that, the present suit is filed for the relief of partition and separate possession and such other reliefs. One Sannamma and Mugaiah are the grand father and mother of the plaintiffs and they are the original propositus of their family. The said Mugaiah got married to Sannamma and they had 5 children. The said Mugaiah @ Kadaiah passed away on 13.03.2011 and his wife Sannamma died on 01.10.2016 leaving behind her 5 children as legal heirs the plaintiffs are the owners of suit property. The plaintiff and defendants constitute as Hindu Undivided Joint Family and coparcener. They are the legal heirs of H.M.Shivanna. They are the owners of land bearing Sy.No.23/1A measuring to an extent of 39 guntas, Sy.No.72/2 measuring to an extent of 3 acre 15 guntas and 5 guntas of karab in all measuring 4 acre 20 guntas, situated at Dodda Hosahalli Village, Huliurudurga Hobli, Kunigal Taluk. The suit property was purchased by the great grand mother Smt.Huliyuruamma on behalf of Mugaiah @ Kadaiah and Sannamma who are the grant parents of the plaintiffs. After the death of Mugaiah and Snnamma the mother of the plaintiff mutated her name in the revenue records based on pavathi varasu.

4. The mother of the plaintiffs approached the defendant No.3 and asked for relevant documents at the time the defendant No.3 issued endorsement stating that, there is no MR in the



name of grand father of the plaintiffs. Thereafter she approached the defendant No.6 by filing appeal which came to be registered in RA (KUN) 1929/2021-22. After hearing the parties the Assistant Commissioner has granted stay. The defendant No.2 approached the grant parents of the plaintiffs requested for lease of the property and fraudulently got executed the sale deed in his favour by taking undue advantage of the illiteracy and manipulated the documents. The plaintiffs are in peaceful possession and enjoyment of the suit property and it is the ancestral property of the plaintiffs. The suit property is the converted land and the conversion order has been passed by the Deputy Commissioner in No.ALRS (TMK) CR/180/2008-09.

5. During the pendency of the case before the Additional Commissioner the defendant No.2 fraudulently mutated his name in the MR trying to gain wrongful share of the plaintiffs and to cheat the plaintiffs. During the month of April 2023 the plaintiffs requested the defendant No.2 to effect partition and allot share but, he denied the same. The defendant No.2 has no exclusive right to alienate the suit property without effecting partition. Now taking advantage fo the revenue entries standing in his name he is trying to alienate the suit property also causing interference to the peaceful possession and enjoyment of the suit property. He is also attempting to



put up construction in the suit property. Hence prayed to allow the IA No.II and III.

6. In pursuance of the summons issued by the court the defendant No.2 have appeared before the court and filed written statement and memo to adopt the written statement as objections to IA No.II and III. The defendant No.1 has also appeared but he has not chosen to file written statement. The defendant No.3 and 6 are placed exparte.

7. It is the contention of the defendant No.2 that, the plaintiff has no right, title and interest over the suit property. The suit of the plaintiff is bad for mis-joinder of unnecessary parties and non joinder of necessary parties. The defendant No.2 is the bonafide purchaser of written statement schedule property having purchased under registered sale deed dated 24.09.2007 which belongs to Sanamma wife of Mugaiah and she acquired the said property through registered sale deed dated 08.01.1979. The above said Sannamma and her children including the defendant No.1 have sold the written statement schedule property in favour of defendant No.2. Thereafter the mutation was also accepted in his favour and he obtained the conversion order from the Deputy Commissioner with respect to the written statement schedule property. After obtaining the conversion order the KSHIP has acquired 7 ½ guntas out of 1 acre 1 gunta and there is only



33 ½ guntas in Sy.No.72/2. The plaintiffs have filed present suit without identification of the property. The plaintiffs are having knowledge of the said sale deed and the plaintiffs in collusion with defendant No.1 have filed the present suit only to harass the defendant No.2. The defendant No.2 is the utter stranger to the suit property and the plaintiffs are having no right over the suit property and the suit is barred by limitation. Hence prayed to dismiss IA No.II and III.

8. Heard arguments on both sides.

9. The points that arise for my consideration are:-

1. Whether the plaintiffs have made out prima-facie case for grant of interim injunction order as sought in IA No.II and III?
2. Whether balance of convenience lies in favour of plaintiffs ?
3. Whether irreparable loss and hardship will be caused to the plaintiffs, if injunction is not granted ?
4. What order?

10. My finding on points are as under;

- Point No. 1: In the Negative,
Point No. 2: In the Negative,



- Point No. 3: In the Negative,
Point No. 4: As per final order
for the following;

REASONS

11. **POINT NO.1 TO 3:-** Since these three points are inter connected with each other are taken together for common discussion.

12. In support of the contention of the plaintiffs they have got produced certified copy of the sale deed dated 08.01.1979, genealogical tree, death certificate, endorsement issued by Thasildar dated 18.04.2022, certified copy of the order sheet and order of the Assistant Commissioner, Certified copy of the conversion order, MR, Certified copy of dale deed dated 24.09.2007, photos.

13. The defendant No.2 has produced the following documents: certified copy of the sale deed dated 08.01.1976, 24.09.2007, conversion order, record of rights, tax paid receipt, Order copy of the LAC No.189/2015, written statement in OS.No.727/2025, Order copy of the Assistant Commissioner, certified copy of the plaint, order sheet, written statement, deposition and exhibits, certified copy of the order sheet and plaint in OS.No.727/2025 and photos with CD.



14. It is an admitted fact that, the suit schedule property originally vested with Honnappa @ Thammaiah S/o Kodaiah of Doddamadhure Village, and the said Honnappa along with his family members sold the suit schedule property in favour of Sannamma W/o Muganna through registered sale deed dated 08.01.1979. Even the plaintiff and defendants admitted the said document. According to the plaintiffs the said Sannamma is the grandmother of the plaintiffs. The mother of the plaintiffs acquired the said property through registered sale deed. After the death of Mugaiah @ Kandaiah and Sannamma the mother of the plaintiffs went to the office of Thasildar to mutate revenue records in her name at that time she came to know that there was no MR in the name of grand parents of the plaintiffs. Then she filed appeal before the Assistant commissioner in RA (KUN) 929/2021-22 wherein stay has been granted. It is the specific case of the plaintiffs that, the defendant No.2 approached the plaintiffs and requested them to lease out the suit property and in the guise of lease he got executed the sale deed in his favour. Since the grand parents of the plaintiffs are uneducated. He also got conversion order with respect to the suit property.

15. On the other hand it is the contention of the defendant No.2 that, he is the bonafide purchaser of the suit schedule property through registered sale deed dated 24.09.2007 have been purchased it from the Sannamma. According to the



defendant No.2 Sannamma, her husband, children including the defendant No.1 have sold the suit property in his favour. To substantiate the said fact the defendant No.2 got produced the sale deed. Further the defendant No.1 also applied for conversion and the Deputy Commissioner after considering the representation has issued conversion certificate and ordered for conversion of land from agriculture to non-agriculture. Even the KSHIP authority has acquired 7 ½ guntas of land in Sy.No.72/2 out of 1 acre 1 guntas and there is only 33 ½ guntas in Sy.No.72/2. The plaintiff has filed present suit without identifying the property.

16. During the course of arguments the counsel for defendant No.2 brought the notice of the court as to the suit being filed by one him against the father and mother of the plaintiffs wherein they have appeared and filed written statement and the Prl. Civil Judge Court has granted stay with respect to suit property from causing interference. The plaintiffs have suppressed the said facts and filed the present suit. When the stay is in operation the question of again granting stay with respect to the same property does not arise. Further the plaintiffs have taken up specific contention that, the sale deed in favour of defendant No.2 is created one as such until and unless the trial is concluded the question as to genuineness of the sale deed can not be gone into. Further in the IA No.II the plaintiffs have sought three reliefs as to



interference, putting up construction and not to alter suit property therefore, the IA is not maintainable.

17. Further from the record it appears that, the revenue records of the suit property is standing in the name of defendant No.2 based on the sale deed dated 24.09.2007. The plaintiffs have challenged the said sale deed before the court therefore, until and unless the sale deed is cancelled the question of plaintiffs being owners of the suit property does not arise. Further it is relevant to note that, the family members of the plaintiff have already filed suit in OS.No.411/2022 seeking for the relief of partition and the said facts are not stated by the plaintiffs in the present suit. The plaintiffs in their pleadings have not whispered anything with regard to pendency of the suit before the Prl. Civil Judge court and by suppressing the said suit they have filed the present suit. Therefore at this stage the plaintiffs have failed to make out case for grant of injunction. The balance of convenience lies in favour of the defendants. In the event of granting of injunction it is the defendants who will be put to hardship which can not be compensated in terms of money as such no grounds made out to allow the IA No.II and III. Hence point No.1 to 3 are answered in the Negative.

18. **POINT NO.4:-** In view of my findings on Point No.1 to 3, I proceed to pass the following:-



ORDER

I.A.No.II and III filed by the plaintiffs U/o 39 Rule 1 and 2 of CPC is hereby rejected.

Having regard to the relationship no order as to costs.

(Dictated to the stenographer transcribed by her corrected and then pronounced by me in the open court on this the 7th **day of August 2026**).

sd/-

(Smt.Gangavva Ayatti)
Addl. Senior Civil Judge and JMFC,
Kunigal.