



**IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,
AT SIRA.**

Dated this the 29th Day of August 2025

PRESENT: **Sri. NARSIMHAMURTHY.A**
 B.A.,LL.B.,
 Prl. Civil Judge & JMFC., Sira.

O.S. No.149/2025

PLAINTIFF : Jannappa,
 S/o Late Javarappa,
 Aged about 76 years,
 R/at 236, 2nd main road,
 Ramachandrapuram,
 Bengaluru-560021.

(By Smt/Sri. C.K.H., Advocate)

Vs/-

DEFENDANTS : 1. Sumithramma @ Kamalamma @
 Sumithra D/o Late Javarappa,
 W/o Hanumantharayappa,
 Aged about 68 years,
 R/at Kataveeranahalli village,
 Kallambella Hobli, Sira Taluk.
 New address: also R/at Havnalu,
 Yeladbagi post, Kallambella Hobli,
 Sira Taluk. And another.

(By Smt/Sri. C.H.J., Advocate for D.1)

(By Smt/Sri. S.V.M., advocate for D.2)

I.A. No.I

APPLICANT : Ramaiah

-V/s-

OPPONENTS : Lakshamma and others.

* * *



ORDER ON IA No.I

The Plaintiff has filed the application U/o XXXIX Rule 1 and 2 of CPC, by seeking prayer to grant T.I. restraining the defendants from alienating the suit schedule property till disposal of the suit.

2. In the accompanying affidavit of the interim application, plaintiff has averred that the plaintiff and defendant No.1 are the brother and sister. The suit schedule property was ancestral and joint family property. One Javarappa was in possession and enjoyment of suit schedule property. During his life time the Javarappa had executed a partial will of the suit schedule property in favour of defendant No.1 with a condition stating that she cannot alienate the suit schedule property other than the family members. After the death of said Javarappa the khatha of suit schedule property was changed to the name of defendant No.1.

3. The plaintiff further submitted that the defendant No.1 without the knowledge of the plaintiff she has entered into an agreement to sell the suit schedule property. The plaintiff has not authorized to sale the suit schedule property without the consent of plaintiff. Hence, this application.

4. Per contra, the defendants have appeared through their respective counsel and filed objection to the present application. Wherein it is contended that the suit schedule property is the self acquired property of father of defendant



No.1 by name Javarappa S/o Kariyappa. During the life time he had executed registered Will dated 17.12.1986 in favour of defendant No.1. Based on the said Will revenue authorities have accepted the mutation in favour of defendant No.1. The defendant No.1 for her legal necessity has executed register sale deed dated:19.04.2025 with respect to the suit schedule property in favour of defendant No.2. Accordingly the defendant No.2 is in the peaceful possession and enjoyment of the suit schedule property. The plaintiff has no manner of right over the suit schedule property. The plaintiff with an intention to harass the defendants had filed this application. Hence, prays to dismiss the application.

5. Heard both the sides, in view of the materials placed before me and the rival contention raised by the parties the following points have arises for my consideration.

POINTS

1. Whether the applicant/Plaintiff has made out a prima-facie case for the grant of TI as prayed?
2. Whether the balance of convenience lies in favour of Plaintiff?
3. Whether irreparable loss would be caused to the plaintiff/applicant if the instant interlocutory application is not allowed?



4. What order?

6. My answer to the above 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 the final order for the following:

REASONS

7. **POINT No.1 to 3:** These points are taken together for common discussion and to avoid the repetition of facts.

It is made clear that, at this stage only whatever observation made below and opinion expressed are only for the purpose of disposal of this I.A. These observations shall not carry any weigh in the final disposal of this case.

8. Admittedly the defendant No.1 has acquired the suit schedule property from her father under a registered Will dated:17.12.1986. By the virtue of the said Will the defendant No.1 became absolute owner of the suit schedule property.

9. "As per the section 14 of Hindu secession Act, 1956 any property of a female Hindu to be her absolute property".

10. By plain reading of the above said provision the



defendant No.1 is the absolute owner of the suit schedule property. She can alienate the suit schedule property as her wish. Accordingly the defendant No.1 has sold the suit schedule property in favour of defendant No.2 under register sale deed dated:23.04.2005.

11. The plaintiff seriously alleged that there was a condition in a Will dated:17.12.1986 that the plaintiff cannot alienate the suit schedule property in favour of other than the family members. But on carefully perusal of above said Will the recitals of the Will does not disclose that the condition was inserted as stated by the plaintiff. Hence the version of the plaintiff is not trust worthy. At this stage, if the application is allowed, the defendants will be put to great loss. Hence, the plaintiff has not shown prima-facie.

12. In so far, as the hardship is concerned, from the facts and circumstances of the case on hand, it appears that defendants will be put to greater hardship, if the T.I. is granted. Apart from this, the Injunction order if any that may be granted against the defendants it curtail the rights of defendants over the land. On the other hand, if the relief of Injunction is refused, no hardship will be caused to the plaintiff. Hence, looking into any angle the comparative hardship is more on defendants rather than the plaintiff. Likewise the balance of convenience also lies in favour of defendants.



13. From the above discussion, it is quite obvious that the plaintiff has failed to make out prima-facie case for the grant of T.I. as prayed and also failed to prove other two statutory ingredients. Accordingly, this court answered the **Point No.1 to 3 in the Negative.**

14. **POINT No.4.** Since the plaintiff has failed to make out the prima-facie case and failed to prove hardship and balance of convenience, he is not entitled to discretionary and equitable relief of T.I. as prayed. Hence, for the aforesaid reasons, I proceed to pass following:

ORDER

I.A. No.I filed by the plaintiff U/o 39

Rule 1 and 2 of CPC is hereby rejected.

No order as to costs.

(Dictated to the Typist directly on Computer, corrected and then pronounced in open court on this 29th day of August 2025)

Sd/-

NARASIMHAMURTHY.A)
Prl. Civil Judge & JMFC,
Sira.