

ORDER

Appellants have filed IA.No.1 under Order XVI Rule 5 read with Section 151 CPC praying the Court to stay the operation of judgment and decree passed by the trial Court in OS.No.14/2022 on 28-04-2025.

2. Appellants have filed IA.No.2 under Order XXXIX Rules 1 and 2 read with Section 94(c) & 151 CPC praying the Court to grant ad-interim injunction restraining the respondent No.1 from alienating the suit schedule properties till disposal of the appeal.

3. I have heard the learned counsel for the appellants and perused the IAs and materials on record.

4. On perusal of the records, it is seen that the appellants have preferred this appeal challenging the judgment and decree dated 28-04-2025 passed by the Court of Additional Civil Judge & JMFC-II, Karwar in suit OS.No.14/2022 filed by the 1st respondent for partition of the suit schedule properties claiming 1/7th share therein.

5. It is seen that the trial Court after appreciating the pleadings and evidence, decreed the suit holding that the plaintiff-1st respondent is entitled to 1/6th share in the suit schedule properties. The trial Court in its judgment and decree declared the shares of the respondents also.

6. Learned counsel for the appellants has relied upon the following decisions in support of his arguments:

1. ILR 1999 KAR 3886

(IV) Narayana and Others Vs. The Land Tribunal
Mangalore and Others.

2. Nimbavva and Others Vs. Channaveerayya and
Others

7. In view of the above decisions and having gone through the judgment and decree impugned, at this stage this Court is satisfied that the appellants have made out prima-facie case to grant stay of the operation of the impugned judgment and decree and also to grant exparte ad-interim injunction as prayed, because if ad-interim injunction is not granted, the purpose of filing the IA and object of granting injunction would be defeated by delay. Hence I pass the following :

ORDER

- (i) The operation of impugned judgment and decree passed by the trial Court is stayed till next date.
- (ii) The 1st respondent is restrained from alienating the suit schedule properties, till next date.
- (iii) Appellants to comply with Order XXXIX Rule 3(a) CPC.
- (iv) Issue emergent notice on IA.No.1 & 2, order of stay and injunction to the respondents.
- (v) Communicate the order of stay to the trial Court forthwith.
- (vi) Call for TCR.

For appearance of respondents by 04-09-2025.

Sd/-
Addl. Senior Civil Judge,
Karwar.