

KAUK620025892025



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

-:PRESENT:-

SRI. IRANNA HUNASHIKATTI.,
B.COM., LL.B.
Prl. Civil Judge & JMFC.,
Honnavar.

OS No. 117/2025

Dated this 27th day of November- 2025

Plaintiff/s :- Laxman Manjappa Prabhu,
Aged about : 82 years,
Occupation: Agriculturist,
R/o Hologadde, Gudaballi,
Kumta Taluk (U.K.).

V/s

Defendant/s :- Smt. Durgi @ Ratna Nagvekar & Others,
Aged about : 76 years,
Occupation: Housewife,
Mangaluru.

IA No. I

Applicant/s :- Laxman Manjappa Prabhu,
Plaintiff/s

(By Sri. K.S.B., Advocate)

V/s

Opponent/s:- Smt. Durgi @ Ratna Nagvekar & Others,
Defendant/s

(D6- By Sri. G.P.H., Advocate)

ORDERS ON I.A. No. I

The plaintiff/applicant has filed I.A. No. I under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking an ad-interim temporary injunction restraining the Defendant No. 6 or any person claiming through or under him, from alienating the suit schedule property in any manner, and from creating any encumbrance over the suit schedule property until the final disposal of the suit.

:-Description of the suit schedule properties:-

Land situated at Kulakod village, Honnavar taluk, bearing Sy.No. 38/232, measuring 7-9-0 guntas, out of which ½ share, bounded by vahivati boundaries.

2. The application of the plaintiff is accompanied by an affidavit duly sworn to by him, wherein he has averred that, the suit schedule property was originally granted in favor of Smt. Bhavani @ Bhagirathi Manjayya Prabhu by the Government in the year 1925, and the same was recorded in mutation entry No. 208. No objection has been raised regarding this mutation entry to date, which prima facie establishes the claim of ownership in favor of Bhavani @ Bhagirathi Manjayya Prabhu.

It is further averred that Bhavani @ Bhagirathi Manjaya Prabhu adopted the plaintiff in the year 1955, and the adoption was duly registered as a deed in the Honnavar Sub-Registrar's office on 14.04.1996. The plaintiff, therefore, claims to have inherited rights over the suit schedule property by virtue of adoption and succession.

3. The plaintiff has alleged that Defendant No. 6, by manipulating revenue records and allegedly colluding with revenue officials, caused the suit schedule property to be recorded in his own name. It is further contended that the defendant No.6 is now attempting to alienate or encumber the property. If this application is not allowed, then he will be put to great hardship and on the other hand, if the application is allowed, no hardship will be caused to the defendant No.6.

Hence prays to allow the application.

4. In pursuance of the suit summons, the defendant No.6 has appeared before the court & filed his objections to the application. In the objections, it is stated that the application filed by the plaintiff is not maintainable. **Hence prays to dismiss the application.**

5. Heard both side counsels on IA No. I.

6. On the basis of above contention, the following points arise for consideration:

1. Whether the of plaintiff/applicant proves that he has made out a prima-facie case?

2. Whether the of plaintiff/applicant proves that the balance of convenience lies in his favour?

3. Whether the plaintiff/applicant proves that he will suffer irreparable injury if temporary injunction is not granted in his favour?

4. What order?

7. Based on the contents of the present application, objection and materials available on the hand, the aforementioned points answered as under ;

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:-

8. **Point No. 1** :- The plaintiff has filed the present suit against the defendants seeking the relief of declaration and

partition in respect of the suit schedule properties.

While considering the application for grant of temporary injunction during the pendency of the suit, the court is required to find out prima facie case and it is not expected to go into the merits of the case and hold a mini trial. If the plaintiffs are able to prove prima facie case to go into the trial of the suit, they will be entitled to temporary injunction.

9. Since the facts of this case have been narrated above, I refrain myself from re-narrating the facts to avoid repetition.

10. It is the contention of the plaintiff that the suit schedule property belongs to the plaintiff's family. Hence, in order to protect the immovable property, it is necessary to grant an injunction to keep the property intact.

11. Learned counsel for the plaintiffs argued that no injury would be caused to Defendant No. 6 if an order of temporary injunction is granted, as the suit has been filed seeking the reliefs of declaration and partition. It is further submitted that, in order to effectively adjudicate the matter, the suit property must be kept intact until the final disposal of the case.

12. In support of their claim, the plaintiff has produced documents along with the suit, such as the present computerized RTCs pertaining to the suit schedule properties, old RTCs of the suit schedule properties, the adoption letter, death certificates, GPA copy, mutation entries, and other relevant records.

13. On perusal of computerized RTC it discloses that, suit schedule property has been standing in the name of defendant No.6 and it further reveals that, defendant No.6 is in possession of the suit schedule property.

However, in the adoption deed, it is noted that on 14.04.1996 the plaintiff, aged about 21 years, was adopted by Smt. Bhavani @ Bhagirathibai W/o Prabhu, and the said adoption deed is registered in the Honnavar Sub-Registrar's Office.

In the present case, the suit schedule property presently stands in the name of Defendant No. 6. The adoption deed of 1966 indicates that the plaintiff was adopted by Smt. Bhavani @ Bhagirathibai W/o Prabhu, which appears to be inconsistent with the present revenue entries standing in the name of

Defendant No. 6.

13(A). The averments put forth by the plaintiff, particularly concerning the about the adoption deed, the genuineness of the revenue entries, and the rival claims over the suit schedule property. Such issues cannot be determined at this interlocutory stage and necessarily require examination during a full-fledged trial.

14. From going through contents of affidavit of the application and plaint and also materials available on the hand, at this stage it reveals that, the plaintiff/applicant has established that, he has made out prima facie case to seek the relief as sought in the application. **Hence, in view of the above discussion, the point No.1 answered in the Affirmative.**

15. Point No. 2 :- The plaintiff has produced the documents in respect of suit schedule property to show that, he has made out prima-facie case. Based on documents adduced by the plaintiff, it shows that, the balance of convenience also is in favour of the plaintiff. **Hence, in view of the above discussion, the point No.2 answered in the Affirmative.**

16. Point No. 3 :- On the basis of contents has taken by the plaintiff and defendant No.6 and also based on the documents produced by the parties and as the plaintiff is made out prima – facie case and also balance of convenience lies in his favour, it is very clearly show that, if the temporary injunction order is not granted it is the plaintiff who would be caused great hardship and irreparable loss than the defendant No.6. **Hence, in view of the above discussion, the point No.3 answered in the Affirmative.**

Let me make it clear at this juncture only that whatever observations made and the opinion expressed while considering the present application, are only for the purpose of the disposal of this application as it is a premature stage. These observations shall not carry any weightage in the final disposal of the case.

17. Point No. 4 :- In view of discussion of point No.1 to 3, this court proceed to pass the following:-

ORDER

IA No. I filed by the applicant/
plaintiff under order 39 Rule 1 and 2 of
C.P.C., is hereby partly allowed.

The defendant No.6 or any person claiming through or under him is hereby restrained by way of temporary injunction from alienating the suit property in any manner till final disposal of the suit.

No order as to costs.

*(Typed by me in my laptop, revised, corrected and then pronounced by me in the open Court, on this the **27th day of November, 2025.**)*

(IRANNA HUNASHIKATTI)
Prl. Civil Judge and J.M.F.C.,
Honnavar.
