

KAVP200000792024



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,
BASAVANA BAGEWADI.**

PRESENT : Shashidhara M. Gowda,

M.A. B.Ed.,LL.B.,
Senior Civil Judge & JMFC, Basavana Bagewadi

O.S.No.33/2024

DATED THIS THE 16th DAY OF SEPTEMBER-2025

PLAINTIFF:

**Parasappa,
S/o.Basappa Mooramatti,
Age:53 years, Occ:Agriculture,
R/o.Chimmalagi Part-2, Tq.Nidagundi.**

(By Sri.A.S.Kolkar, Adv.,)

// Versus //

DEFENDANT

**Imamsab,
S/o.Babusab Goundi,
Age:28 years, Occ:Agriculture,
R/o.Chiraladinni, Tq.Kolhar.**

(By Sri.T.S.Gayakwad,Adv.,)

PARTIES TO I.A.NO.I

APPLICANT:

**Parasappa
S/o.Basappa Mooramatti.**

//Vs//

OPPONENT:

**Imamsab,
S/o.Babusab Goundi,
Age:28 years, Occ:Agriculture,
R/o.Chiraladinni, Tq.Kolhar.**

Provision under which the application is filed	:	U/o.39 Rule 1 & 2 R/w.Sec.151 of CPC
Relief sought for	:	Not to alienate the suit property.
The date on which the application is filed	:	22.01.2024
Number of the Application	:	I.A.No.I
The date on which the objection(W.S)are filed by different opponents	:	19.04.2024
The date on which the orders were passed on the said application	:	16.09.2025

::ORDER ON APPLICATION U/O.39 RULE 1 & 2

R/W.SEC.151 OF CPC I.A. NO.I::

The applicant/plaintiff has filed I.A.No.I under Order 39 Rule 1 & 2 CPC R/w.Sec.151 CPC I.A.No.I, seeking interim injunction against the defendant/opponent for restraining him from alienating the suit property, till disposal of the suit.

2. The brief facts of the contentions of I.A.No.I is as under:-

On 29.08.2008, the plaintiff purchased the suit schedule property Angadageri village Sy.No.112 measuring 3 acres 20 guntas for valuable sale

consideration amount of ₹1,93,000/- from Maliyappa S/o.Basavantappa Badiger. Thereafter, he has filed application before the concerned revenue authority enter his name in the suit schedule property. On the date of execution of the sale deed, the plaintiff took physical possession in respect of Sy.No.112 measuring 3 acres 20 guntas. He was enjoying the property till today. He was dig borewell in the suit schedule property. He was grown up somany varieties of crops in the suit land.

3. The present defendant/opponent was purchased Sy.No.111 measuring 8 acres 27 guntas on 31.01.2022 from Neelamma W/o.Irayya Mathapati, but the defendant has not verified physical possession of Neelamma W/o.Irayya Mathapati. Both the parties have nominated alleged sale deed, but the

boundaries and measurement wrongly mentioned in the alleged sale deed. The physical possession of 8 acres 27 guntas, the defendant has not took possession during execution of the sale deed.

4. The defendant created illegal and bogus alleged sale deed. He was filed application before the concerned revenue authority. The concerned revenue authority and the defendant colluding each other, finally the defendant name reflected in the revenue records Sy.No.111 measuring 8 acres 27 guntas. But, the defendant had not possession in total measuring 8 acres 27 guntas.

5. Angadageri village Sy.No.110 its owner encroached in Sy.No.111 measuring 3 acres 21 guntas. But the defendant has not bothered about the plaintiff possession and enjoyment of the

suit schedule property. Along with the plaint, the plaintiff has produced hand sketch map. As per hand sketch map 'ABCD' 3 acres 20 guntas the plaintiff possession. The defendant obstructed the plaintiff's possession towards A & D. The defendant is physical possession of 'ABEF' but he has no right to obstruct the plaintiff's peaceful possession and enjoyment of the suit schedule property.

6. The defendant and his agents, continuously plaintiff's peaceful possession and enjoyment of suit schedule property which is mentioned in the rough hand sketch map 'ABCD'

7. The defendant alarmed in the village, he has sold out Sy.No.111 measuring 8 acres 27 guntas. If the defendant will be succeeded sold out Sy.No.111 measuring 8 acres 27 guntas,

the plaintiff great loss and legal injury. Hence, the Hon'ble Court kindly allow the above application and restrain not to alienate Sy.No.111 measuring 8 acres 27 guntas. The prima facie case, the balance of convenience in favour of the plaintiff. If the defendant sold out Sy.No.111 measuring 8 acres 27 guntas, the plaintiff great loss and legal injury and multiplicity of proceeding will be arose among both the parties. These are all grounds, the Hon'ble Court kindly allow the above application against the defendant, in the interest of justice & equity.

8. The defendant/opponent has filed written statement, the same written statement adopted as objection to I.A.No.I.

9. The brief facts of the objection contention of the defendant/opponent is as under:-

The I.A.No.I filed by the plaintiff/applicant is false, frivolous, vexatious and not tenable in the eye of law. The contents of the affidavit are all false. The plaintiff has filed suit as well as I.A.No.I only with malafide intention to harass the defendant/opponent by suppressing the true material facts.

10. The hand sketch map produced along with the plaint totally wrong. There is no basis hand sketch map only created document. There is no legal identification to the hand sketch map produced by the plaintiff. The defendant has filed detailed written statement along with the hand sketch map. The defendant hand sketch true and correct one. The plaintiff has not possession of measuring 3 acres 20 guntas in Sy.No.112. He was created sale deed dated:29.08.2008. His previous owner Maliyappa S/o.Basavantappa Badiger has not physical possession in respect of suit schedule property. The hand sketch map only assumption and presumption

prepared by the plaintiff. The defendant is lawful owner and possessor in Sy.No.111 measuring 8 acres 27 guntas. The plaintiff obstructed the defendant, but in the plaint as well as I.A.No.I affidavit contention, the defendant obstruction to the plaintiff's suit schedule property. There is no valid reason, the plaintiff suppressed the true material facts. Moreover, the defendant has not sold out suit schedule property. The prima facie case and the balance of convenience in favour of the defendant. If this court allows I.A.No.I, the defendant/opponent great loss and legal injury. Hence, the Hon'ble Court kindly dismiss the I.A.No.I.

11. Heard arguments from both sides. Perused the both sides documents available in this file.

12. On the basis of the rival contentions of the parties, the following points arise for consideration of this court:

::POINTS::

1. Whether the plaintiff/applicant has got prima facie case?
2. In whose favour the balance of convenience lies?
3. Whether the plaintiff/applicant proves if this court not to allow I.A.No.I, he is great loss and legal injury?
4. What order?

13. For the above said pleadings, objections, my findings to the above points as under:

Point No.1: In Affirmative,

Point No.2: In favour of the applicant/plaintiff,

Point No.3: In the affirmative,

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

:REASONS:

14. POINT NO.1 TO 3:- All these points are interlinked, to avoid unnecessary repetition of discussion, they are taken up together for common discussion.

On behalf of the plaintiff/applicant Sri.ASK advocate, on behalf of the defendant/opponent Sri.TSG advocate argued on I.A.No.I.

15. I perusal of entire case file, I.A.No.I and affidavit contention, objection contention, documents available in this case file, both parties learned advocate arguments highlighted points, it is come to the conclusion that the plaintiff on 29.08.2008 he was purchased Angadageri village Sy.No.112 measuring 3 acres 20 guntas for valuable sale consideration of ₹1,93,000/- from Maliyappa S/o.Basavantappa Badiger. On the same day, he took possession of the above survey number and measurement. Thereafter, he was filed application before the concerned revenue authority. Finally, his name reflected in the RTC and other revenue records.

16. The defendant also purchased the land from one Neelamma W/o.Irayya Mathapati. In this regard, on 31.01.2022, absolute sale deed executed by Neelamma in favour of the defendant in respect of Sy.No.111 measuring 8 acres 27 guntas. As per the defendant contention, on the date of execution of the sale deed, the defendant took the possession measuring 8 acres 27 guntas.

Thereafter, the defendant enjoying Sy.No.111 measuring 8 acres 27 guntas.

17. I perusal of the both parties pleadings and documentary evidence, it clearly comes to conclusion that the plaintiff on 29.08.2008 he was purchased Sy.No.112 measuring 3 acres 20 guntas. Likewise, the defendant also purchased Angadageri village Sy.No.111 measuring 8 acres 27 guntas. In this regard, documentary evidence clearly stating that both the parties have purchased the land from different persons. The above two parties (plaintiff and the defendant) lands attaching one to another. As per the plaint averments, and I.A.No.I affidavit contention, the defendant obstructed the plaintiff's peaceful possession and enjoyment of the suit schedule property in Sy.No.112 measuring 3 acres 20 guntas. In this regard, he has produced hand sketch map. In the hand sketch map the 'ABCD' property belongs to the plaintiff. 'ABEF' property belongs to the defendant. The defendant obstructed the plaintiff's peaceful possession and enjoyment of the suit schedule property. The defendant also

alarmed in the village, he was sold out Sy.No.111 measuring 8 acres 27 guntas. The plaintiff approached the defendant. He is ready to purchase the defendant property. But the defendant is not ready to sold out the property in favour of the plaintiff. If the defendant will be succeeded sold out the suit schedule property to another stranger, the multiplicity of proceeding arose among both the parties. The balance of convenience also in favour of the plaintiff. The prima facie case also in favour of the plaintiff. The owner of Sy.No.110 encroached the defendant's property, but the defendant kept quiet against the Sy.No.110 owner. But he was obstructed to the plaintiff's peaceful possession and enjoyment of the suit schedule property. If the defendant was sold out his property, the plaintiff great loss and legal injury till disposal of the suit. The Hon'ble court kindly pass the order in favour of the plaintiff against the defendant. The above facts and circumstances clearly reveal that no doubt the physical possession dispute among both the parties. In this regard, full fledged trial is very essential.

After completion of full fledged trial, the true material facts came into the court till disposal of the case. It is just and necessary to allow the I.A.No.I. If this court not to allow I.A.No.I, the defendant/opponent will be sold out Sy.No.111 measuring 8 acres 27 guntas. Hence, it is just and necessary to allow I.A.No.I. The plaintiff/applicant proved point Nos.1 to 3. Hence, I answer the point Nos.1 to 3 in the affirmative.

18. POINT NO.4:- In view of the findings, I answered point No.1 to 3 in the affirmative, the court proceeds to pass the following:-

::ORDER::

- i. I.A.No.I U/order 39 Rule 1 & 2 R/w.Sec.151 of CPC filed by the plaintiff/applicant is hereby allowed.
- ii. The defendant/opponent, his agents, servants or anybody acting on his behalf are hereby directed to restrain from alienating the suit

schedule property in any manner in
favour of any persons, till disposal of
the suit.

iii. No order as to costs.

*(Dictated to the Stenographer directly on computer typed by him, corrected and pronounced by me in the open court on this the **16th day of September-2025**).*

(Shashidhara M.Gowda)

Sr.Senior Civil Judge & JMFC.,
Basavana Bagewadi.