

KAVP210000362012



IN THE COURT OF PRL. CIVIL JUDGE & J.M.F.C.
AT BASAVANA BAGEWADI

Dated this the 14th Day of July, 2026

Present: Sri.Ameet Ghatti, B.A., LLB.,
Prl. Civil Judge & JMFC.,
Basavana Bagewadi.

O.S.No.351/2012

PLAINTIFF: Ningawwa W/o Yamanappa @ Basappa Yaragal
@ Biradar.

/Vs/

DEFENDANTS: Bhimabai W/o Sidramappa Desai @
Gotagunaki & Others.

PARTIES IN I.A.No.XIII

APPLICANT/PLAINTIFF No.1C:

Neelamma W/o Gurappa Bandal,
Age: 45 years, Occ: Household Work,
R/o Karabhantanal, Tq: Basavana Bagewadi.

(By Sri. N.S.Biradar, Advocate)

// Versus //

OPPONENT/DEFENDANT No.3:

Baburay S/o Mallappa Gotagunaki,
Age: 58 years, Occ: Agriculture,
R/o Solawadagi, Tq: Basavana Bagewadi.

(By Sri. M.S.Golasangi, Advocate)

i	Provision under which the applications are filed	XXXIX Rule 1 and 2 of CPC.
ii	Relief sought for	With a prayer to grant ad-interim injunction order.
iii	The date on which the application is filed	21.01.2026
iv	Number of the applications	XIII
v	The date on which the objections are filed by different opponents	11.02.2026
vi	The date on which the order was passed on the said application	14.07.2026
vii	The application filed by	Plaintiff No.1C.
viii	Stage of the suit	Notice to L.Rs., of plaintiff No.1(a).

ORDER ON I.A.No.XIII

1. This is an application filed by the plaintiff No.1C under Order XXXIX Rule 1 and 2 of CPC praying to restrain the defendant No.3 to 5 from alienating, mortgaging, transferring the suit schedule properties bearing Sy.No.54/1 ॐ measuring 6-acres 33-guntas, Sy.No.54/1 ॰ measuring 6-acres 34-guntas, Sy.No.54/1 ॱ measuring 6-acres 33-guntas and Sy.No.54/1 ॲ measuring 6-acres 33-guntas, all are situated at Solawadagi Village of Basavana Bagewadi Taluka till disposal of the suit.

2. In support of application, the plaintiff No.1C has filed her affidavit wherein she has stated that, the plaintiffs have filed the suit for partition in respect of suit properties. During pendency of the suit, the defendant No.3 to 5 are trying to alienate the suit properties. She requested the defendants, but the defendants did not heed her request. Hence, prays to allow I.A.No.XIII.
3. The defendant No.3 has filed objection to I.A.No.XIII by denying each and every contentions of the plaintiff No.1C. Further contending that, the suit properties are not the ancestral properties of the plaintiffs and defendants. Further contending that, the plaintiffs have not produced the documents to show that, the suit schedule properties are ancestral properties. The plaintiffs have no right over the suit properties. Further contending that, there is delay in filing the suit U/Sec.27 of Limitation Act. Further contending that, from the date of filing of the suit i.e. since 2012 she has not appeared. The plaintiff No.1C is dragging the matter. Further contending that, there is no prima-facie case and no balance of convenience lies in favour of plaintiff No.1C. Hence, prays to reject the application.

4. Heard arguments and perused the materials available on record.
5. Upon hearing arguments and materials placed on record, the following points that arise for my consideration:

POINTS

1. Whether the plaintiff No.1C has made out a prima-facie case ?
 2. Whether balance of convenience lies in favour of plaintiff No.1C ?
 3. Whether irreparable loss sustained by the plaintiff No.1C, if temporary injunction is not granted ?
 4. What Order ?
6. My findings to the above Points are as follows”
POINT No.1 : In the Affirmative
POINT No.2 : In the Affirmative
POINT No.3 : In the Affirmative
POINT No.4 : As per order for the following :

REASONS

7. **POINT NO.1:-** Let me make it clear at this juncture only that whatever observations made and the opinion expressed are only for the purpose of the disposal of this I.A. as it is a premature stage. These observations shall not carry any weightage in the final disposal of the case.

Law relating to grant or refusal to grant temporary injunction has been culled out by the Hon'ble Supreme Court of India in *AIR 1999 SUPREME COURT 3105 (Colgate Palmolive (India) Ltd., v. Hindustan Lever Ltd.,)*

8. Keeping in mind the well-settled legal principles regarding granting or refusal for granting temporary injunction enunciated in the above-cited decision, let me advert to consider the case of the parties. Suit is filed by the plaintiff for the relief of partition and separate possession against the defendants. After service of summons, the defendants appeared through their respective Counsels and filed written statement. Issues were framed. When the case is posted for cross of P.W.1, the plaintiff No.1C has filed the present application wherein she has stated that, the plaintiffs have filed the suit for partition in respect of suit properties. During pendency of the suit, the defendant No.3 to 5 are trying to alienate the suit properties. She requested the defendants, but the defendants did not heed her request. Hence, prays to allow I.A.No.XIII.

9. In support of her contentions, she has produced RTC Extracts and Mutation Extracts.
10. On the other hand, the defendant No.3 has contended that, the suit properties are not the ancestral properties of the plaintiffs and defendants. Further contending that, the plaintiffs have not produced the documents to show that, the suit schedule properties are ancestral properties. The plaintiffs have no right over the suit properties. Further contending that, there is delay in filing the suit U/Sec.27 of Limitation Act. Further contending that, from the date of filing of the suit i.e. since 2012 she has not appeared. The plaintiff No.1C is dragging the matter. Further contending that, there is no prima-facie case and no balance of convenience in favour of plaintiff No.1C. Hence, prays to reject the application.
11. In support of his contentions, the defendant No.3 has not produced any documents.
12. On perusal of records, it is the contention of the plaintiff No.1C that, the plaintiffs and defendants No.2 to 4 are the joint family members and the suit schedule properties are the ancestral properties of the plaintiffs and defendants.

Further contending that, the plaintiffs demanded their share. But, the defendants refused to give their share. The defendants in their written statement have not disputed the relationship with plaintiffs. It is contention of the defendants that, the suit schedule properties are self-acquired properties. The contentions of the defendant No.3 cannot be considered at this stage. The said contention is required full-fledged trial. If the injunction is not granted, there is multiplicity of proceedings and purpose of filing of the suit will be defeated. Further, if the defendants alienate the suit schedule properties and the suit is decreed, no property will be available for partition. Hence, at this stage, the plaintiff No.1C has made out prima-facie case to grant injunction. Hence, I answer Point No.1 in the **Affirmative**.

13. **POINTS NO.2 AND 3:-** These points are taken up for common discussion in order to avoid repetition of facts.
14. The present suit filed by the plaintiffs for the relief of partition and separate possession against the defendants. As already discussed in the above Point No.1 and documents produced by the both the parties, by perusing

the same, balance of convenience lies favour of plaintiff No.1C, under such circumstances, if the I.A.XIII is allowed, no loss will caused to the other side, on the contrary the plaintiff No.1C will be put to irreparable loss. Under these reason, I answered Points No.2 and 3 in the **Affirmative.**

15. **POINT No.4:** - In view of my findings to Points No.1 to 3, I am of the considered opinion that, the plaintiff No.1C has made out prima-facie case. The plaintiff No.1C has also established that, balance of convenience lies in her favour and irreparable injury would be caused to her if an order of temporary injunction is denied. Further, if the application is not allowed, purpose of the filing the suit will be defeated and there will be multiplicity of proceedings. Hence, at this stage the plaintiff No.1C has made out grounds to allow the application. Therefore, the plaintiff No.1C is entitled for the relief of temporary injunction. Accordingly, I proceed to pass the following:

ORDER

I.A.No.XIII filed by the plaintiff No.1C
under Order XXXIX Rule 1 and 2 of C.P.C., is
hereby allowed.

The defendant No.3 to 5 or anybody claiming through them are restrained from alienating, mortgaging, transferring the suit properties till disposal of the suit.

No order as to cost.

*(Part of the Order is dictated to the Stenographer, transcribed and computerized by him and remaining part of the Order is dictated to him on computer directly, then print out taken by him and then corrected and pronounced by me in open Court on this **14th day of July, 2026**).*

(Ameet Ghatti)
Prl. Civil Judge & JMFC
Basavana Bagewadi

<><><>