

KAVP500023842025



Presented on : 16-06-2025

Registered on : 20-06-2025

Decided on : 06-01-2026

Duration : 00-Years, 06-Months, 18-days

**IN THE COURT OF HON'BLE I ADDL. SENIOR CIVIL
JUDGE AND JMFC, SINDAGI
AT: SINDAGI.**

Present – Shri. Abdul Rahiman .A. Mulla
B.A.L,LL.B.(Hon's)

**I Addl. Sr. Civil Judge & JMFC,
Sindagi.**

Dated 6th day of January-2026

O.S.NO.157/2025

<u>plaintiffs/s :</u>	1.	Smt. Bhimavva w/o Sharanappa Gugalla @ Natikar. Age: 40 Year. Occ: House hold, Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura.
	2.	Sri. Madivalappa s/o Sharanappa Gugalla @ Natikar. Age: 21 Year. Occ: Agri, Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura.
	3.	Yamanabai D/o. Sharanappa Gugalla @ Natikar Age: 16 Years., Occ:Student, A minor R/by her natural mother/

		next friend Smt. Bhimavva W/o. Shranappa Gugalla @ Naikar Age: 40 year, Occ: House hold Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist:Vijayapur.
		(R/by Sri.C.B.K., Adv.,)
		// Versus //
<u>Defendant/s :</u>	1.	Smt. Mantamma w/o Yallappa Gugalla @ Natikar. Age: 45 Year. Occ: House hold, Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura.
	2.	Smt. Madivalamma w/o Tamanna Dindavar (Madaivallavva D/o Yallappa Gugalla) Age: 25 Year. Occ: House hold, Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura
	3.	Smt. Bhagavva w/o Yallappa Gugalla @ Natikar. Age: 40 Year. Occ: House hold, Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura
	4.	Smt. Yallamma w/o Mahantesh Budihal(Yallamma D/o Yamanappa Gugalla) Age:25 Year. Occ: House hold, Res: Honnalli village, at/post Honnalli, Ta/Sindagi, Dist: Vijayapura Tq : Devar-Hipparagi, Dist: Vijayapur.

	5.	Smt. Mallamma D/O Yallappa Gugalla @ Natikar. Age: 12 Year. Occ; Minor, Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura a minor represented by her natural mother / next friend Smt.Bhagavva w/o Yallappa Gugalla @ Natikar. Age: 40 Year. Occ: House hold Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura
	6.	Smt Sarubai w/o Parashuram (Sarubai D/O Parashuram) Age: 26 Year. Occ: House hold, Res: Honnalli village, at/post Honnalli, Tq/Sindagi, Dist: Vijayapura
		(Def.No.1, 2, 4 & 6 by Sri.M.N.N., Adv.,) (Def.No.3 & 5 by Sri.P.C.B., Adv.,)

PARTIES IN I.A.No.I

Applicant/plaintiffs :

1. Smt. Bhimavva w/o Sharanappa Gugalla
@ Natikar and others

V/s.

Opponents/defendants:

1. Smt. Mantamma w/o Yallappa Gugalla @
Natikar and others.

1.	Provision under which the application is filed	u/Sec.39 Rule 1 and 2 of CPC
2.	Relief sought for	To restrain defendant No.1 and 6 from alienating suit schedule property bearing R.S.No.12 measuring 5 acres 31 guntas situated at Hoonalli village, either by way of sale, gift, mortgage, charge etc., or any other manner till disposal of suit.
3.	The date on which application is filed	20-06-2025
4.	Number of the application	I.A.No.I
5.	The date on which objections/written statement are filed by different opponents	28-11-2025
6.	The date on which orders were passed on said application	06-01-2026

-:ORDERS ON I.A.NO.I FILED BY PLAINTIFFS

U/O.39 RULE 1 AND 2 OF CPC :-

1. The present suit is filed by plaintiffs against defendants for the relief of partition and separate possession and along with the suit, present application is filed by plaintiffs praying this court to restrain defendant No.1 and 6 from alienating suit schedule property bearing R.S.No.12 measuring 5

acres 31 guntas situated at Hoonalli village, either by way of sale, gift, mortgage, charge etc., or any other manner till disposal of suit.

2. In the affidavit annexed to the application, plaintiff No.1 averred that, suit schedule property originally belonged to Madivalavva W/o. Eshwarappa Guggalla, who is her mother-in-law. After her death, she along with husband jointly possessed suit schedule property, but recently she came to know that, defendant No.1 and 6 have obtained decree in O.S.No.118/2025 and same is not binding on her. When they demanded for their legitimate share in suit schedule property, defendants have refused for the same and amongst these grounds prayed to allow the application.

3. After registration of suit, suit summons was issued to defendants, wherein defendant No.1, 2 and 6 appeared through their separate counsel and chosen not to file written statement and objections.

Defendant No.3 to 5 appeared through their counsel and defendant No.4 and 5 filed written statement and counter claim praying to decree the suit of plaintiffs.

4. Heard. Perused the records.

5. The points that arise for my consideration is as under:

- 1) Whether prima-facie case and balance of convenience lies in favour of plaintiffs ?
- 2) To whom irreparable loss and injury would be caused in case of granting temporary injunction or refusing to grant the same?
- 3) What order?

6. My findings to the above points are as under:

Point No.1 : In the Affirmative

Point No.2 : To plaintiffs in case of refusing to grant temporary injunction.

Point No.3 : As per final order for the following;

:REASONS:

7. **POINT NO.1 AND 2:** As both these points are interlinked with each other, they are taken together for discussion to avoid repetition of facts.

8. It is specific case of plaintiffs that, suit schedule property originally belonged to Madivalavva W/o. Eshwarappa Guggalla and after her death, plaintiff No.1 along with her husband have succeeded to the suit schedule property and recently plaintiffs came to know that, defendant No. 1 and 6 have obtained decree in O.S.No.118/2025, which is not binding on them.

9. In support of their contention, plaintiffs produced in all 16 documents i.e., RTC extracts of suit schedule property, mutation extracts, death certificates, certified copy of plaint and compromise petition and order sheet in O.S.No.118/2025.

10. On the contrary, defendant No.4 and 5 filed written statement praying to decree the suit of plaintiffs and other defendants having appeared through their counsel have chosen not to file written statement and objections.

11. On prima facie perusal of pleadings and documents produced by plaintiffs, prima facie RTC extracts of suit schedule property is mutated in the name of Madivalavva Natikar and Eshwarppa Guggalla. If at all suit schedule property is alienated during the pendency of suit, it will lead to multiplicity of proceedings.

12. In order to grant an order of temporary injunction, three essential ingredients have to be fulfilled i.e., prima facie case, balance of convenience and irreparable loss and injury. In this case, plaintiffs have made out prima facie case and balance of convenience lies in their favour. If at all suit schedule property is alienated during the pendency of suit, suit

schedule property may not be available for parties at the time of final disposal of suit to enjoy the fruits of decree. If at all temporary injunction as prayed by plaintiffs is not granted, irreparable loss and injury would be caused to plaintiffs rather than defendants. Hence, for the above said reasons, I answer Point No.1 in the “**Affirmative**” and Point No.2 as “irreparable loss and injury would be caused to plaintiffs in case of refusing to grant temporary injunction”.

13. **Point No.3:** For the reasonings and findings given to Point No.1 and 2, I proceed to pass following;

:ORDER:

I.A.No.I filed by plaintiffs U/o.39 Rule 1 and 2 of CPC is hereby allowed.

Defendant No.1 and 6 are hereby restrained by an order of temporary injunction from alienating suit schedule

property bearing R.S.No.12 measuring 5 acres 31 guntas situated Hoonalli village, Sindagi taluka, either by way of sale, gift, mortgage, charge etc., or in any other manner till disposal of suit.

The ad interim ex-parte temporary injunction order dated 23.06.2025 is hereby confirmed.

(Dictated to the stenographer directly on computer, typed by her, corrected, signed by me and then pronounced in open court on 6th day of January-2026).

**(Abdul Rahiman .A. Mulla)
I Addl. Sr. Civil Judge & JMFC,
Sindagi.**