

R.A.No.55/2025

The appellant has filed I.A.No.I U/o.41 Rule 5 of CPC praying this court to stay the execution of judgment and decree passed in O.S.No.117/2014 till final disposal of this petition.

2. In the affidavit annexed to the application appellant averred that, land bearing R.S.No.479/3 measuring 4 acres situated at Sindagi originally belonged to propositus Lalappa S/o. Padamanna Uppar and it is ancestral property devolved upon them from five generations of ancestors and till today appellant is in possession and enjoyment of the same and no partition has been effected between them by metes and bounds. Now respondent No.3 is in hurry to alienate suit schedule property by which irreparable loss will be caused to appellant and amongst these grounds prayed to allow the application.

3. After issuance of notice on application, respondent No.3 appeared through his counsel and filed objections to the application contending that, he is successful in proving his case before trial court. If stay is granted, the very purpose of passing of decree will be frustrated and respondent No.3 will be put to irreparable loss and injury. If stay as prayed by appellant is granted, appellant would drag the matter by which irreparable loss would be caused to respondent No.3 and prayed to dismiss the application.

4. On perusal of records and judgment passed by learned trial court, in its judgment learned trial court has clearly mentioned in para No.25 of its judgment that, except mere denial neither plaintiffs nor defendant No.2 and 3 have led evidence in order to show that, suit property was not sold for family necessity and prima facie it also reveals that, sale deed was

executed in favour of respondent No.3 in the year 2008 and till today, respondent No.3 being the purchaser of suit schedule property has never alienated the same. Hence, the apprehension of appellant that, respondent No.3 is in hurry to alienate suit schedule property is not believable. No sufficient grounds are made out by appellant at this stage of the case to allow the application. Hence, for the above said reasons I proceed to pass the following

ORDER

I.A.No.I filed by appellant u/O.41
Rule 5 of CPC is hereby rejected.

Call for arguments by :
02.04.2026

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