



**IN THE COURT OF THE PRL CIVIL JUDGE AND JMFC., AT
YADGIRI**

PRESENT

Sri. Arun Chougule,

B.A.LL.B.[Hons.]

PRL. CIVIL JUDGE AND J.M.F.C, YADGIRI

DATED THIS THE 26th DAY OF MARCH-2026

ORIGINAL SUIT NO.185/2024

PLAINTIFF/S:-	Shri.Siddappa S/o Rachappa Sajjan Shetty Teli, Age: 79 years, Occ: Agriculture and Rtd. Employee, R/o Badiyal village, Tq: & Dist: Yadgiri.
	(By Sri.D.M Advocate)
-V/S-	
DEFENDANT/S:-	1. Sharanamma W/o Siddalingappa Sajjan Shetty Teli, Age: 60 years, Occ: Agriculture & House hold, R/o #54 Block 3, Dasarhalli, Maruti Nagar Ganigarhalli Bengaluru. 2. Tirupathi S/o Chinnayya, Age: 29 years, Occ: Agriculture, R/o Kadechur village, Tq: & Dist: Yadgiri. 3. Narasimha S/o Erappa, Age: 32 years, Occ: Agriculture, R/o Kadechur village, Tq: & Dist: Yadgiri.
	(By Sri.N.R.K Advocate)

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ORDER ON I.A.No.1

Applicants/ plaintiff/s: Shri.Siddappa S/o Rachappa Sajjan Shetty
Teli,

-V/S-

Opponents/ defendant/s: Sharanamma W/o Siddalingappa Sajjan
Shetty Teli and Others.

i.	<i>Provision under which the application is filed</i>	<i>Under Order 39 Rule 1 and 2 of CPC</i>
ii.	<i>Relief sought for</i>	<i>Temporary Injunction</i>
iii.	<i>The date on which the application is filed</i>	<i>28.08.2024</i>
iv.	<i>Number of the application</i>	<i>IA NO.I</i>
v.	<i>The date on which the objections are filed by different opponents</i>	<i>23.01.2025</i>
vi.	<i>The date on which the orders were passed on the said application.</i>	<i>26-03-2026</i>

**ORDER ON I.A.NO.I FILED BY THE PLAINTIFF
UNDER ORDER XXXIX RULE 1 AND 2 OF CPC**

The plaintiff has filed the present application under Order 39 Rule 1 and 2 of CPC seeking temporary injunction restraining the defendants No.2 and 3 from interfering with his possession over the suit property, till disposal of the suit.

2. The plaintiff has sworn to an affidavit in support of the application stating that the suit property was an ancestral

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property of himself and defendant No.1 and same was fallen to his share in a family partition. However, name of the defendant No.1 was continued in the RTC. As such, the defendant No.1 executed a partition deed stating that the suit property was fallen to the share of the plaintiff and she has no objections to mutate the name of the plaintiff in the records thereof. Accordingly, the plaintiff being the owner is in possession and enjoyment of the suit property. However, as the defendant No.1 denied the ownership of the plaintiff, he filed a suit in OS No.26/2020 for declaration and injunction, which came to be dismissed by judgment dated 02.01.2024. The plaintiff, aggrieved by the said judgment, has filed RA No.4/2024, which is pending disposal. However, the defendant No.1, during pendency of the appeal, sold the suit lands in favour of defendants No.2 and 3 under registered sale deed dated 10.07.2024. That, the defendant No.1 was not in possession of the suit property and there is no delivery of possession to the defendants No.2 and 3. Hence, the plaintiff prays to allow the application.

3. The defendants No.1 to 3 having appeared through their counsel have filed a memo dated 23.01.2025 seeking to adopt their written statement as objections to the present application.

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4. Thereafter, I have heard arguments of learned counsel for the plaintiff and defendants and perused the records.

5. After hearing the arguments and perusal of pleading and records, the following points arise for my consideration;

1. **Whether the plaintiff has made out a prima-facie case?**
2. **Whether balance of convenience lies in favour of plaintiff?**
3. **Whether irreparable loss will be caused to the plaintiff if the temporary injunction as prayed is not granted?**
4. **What order?**

6. My findings on the above points are as under;

Point No.1 : In the Negative.

Point No.2 : Does not survive for consideration.

Point No.3 : Does not survive for consideration.

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

REASONS

7. **POINT NO.1** : The plaintiff has filed the present suit seeking the relief of declaration of title, declaration that the sale deed dated 10.07.2024 is null and void and not binding upon

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him, and to declare that he is entitled to get his name entered in the RTC pertaining to the suit land.

8. The case of the plaintiff is that, suit land bearing old Sy.No.86/Aa measuring 01 acre 05 guntas and new Sy.No.86/7 measuring 01 acre 07 guntas situated at Badiyal village was an ancestral property of himself and defendant No.1. That, the suit property was fallen to the share of the plaintiff in a family partition. However, name of the defendant No.1 was appearing in the RTC of the suit land. As such, the defendant No.1 executed a partition deed dated 25.07.2011 before the notary stating that the suit land was fallen to the share of the plaintiff and she has no objections to mutate the name of the plaintiff in the records thereof. Accordingly, the plaintiff being the owner is in possession of the suit land. It is stated that, as the defendant No.1 denied the title of the plaintiff, he filed suit OS No.26/2020 seeking the relief of declaration and injunction, which came to be dismissed by judgment dated 02.01.2024 and the plaintiff, aggrieved thereby, has filed RA No.4/2024, which is pending disposal. However, the defendant No.1, during pendency of the appeal, has sold the suit land in favour of defendants No.2 and 3 under registered sale deed dated 10.07.2024. That, the

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defendant No.1 was not in possession of the suit land and therefore, no possession was delivered to the purchasers. Hence, the sale deed is illegal and against the law.

9. The defendants have filed written statement denying the case of the plaintiff contending that one Siddappa Sajjan was the propositus of the family of plaintiff and defendant No.1, who had 2 sons by names Rachappa and Shivappa. The plaintiff is the son of Rachappa and defendant No.1 is the daughter-in-law of Shivappa. It is stated that the suit land and non suit land were fallen to the share of Shivappa, father-in-law of the defendant No.1, in a family partition held about 60 years back. After the death of Shivappa, name of husband of defendant No.1 Siddalingappa S/o Shivappa was mutated to the records of suit land and non suit lands. After the death of Siddalingappa, name of the defendant No.1 was mutated to the records of suit land. The plaintiff being aware of these mutations never raised objections to the same. Thereafter, in the year 2011-12, the Government of Karnataka acquired various lands of Kadechur and Badiyal villages for industrial purposes including some portion of the suit land Sy.No.85/3. The defendant No.1 being the owner thereof made representation to receive the

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compensation amount. However, the plaintiff with a malafide intention filed an application before the Tahasildar seeking to enter his name on the basis of a concocted vatani patra. The Tahasildar after verifying the records rejected the application of the plaintiff. Thereafter, the plaintiff filed an appeal before the Assistant Commissioner in Appeal No.47/2012-13, which also was dismissed and the plaintiff, thereafter, filed revision before the Deputy Commissioner of Yadgiri in RP No.22/2012-13, which also came to be dismissed on 12.09.2019. That, the plaintiff having lost the battle in the revenue Court filed a false suit with an intention to harass the defendant No.1. It is contended that, during the trial of suit OS No.26/2020, the plaintiff himself has admitted that a division was made in the family about 60 years back and he has also admitted that the suit land is in the possession of the defendant No.1. That, the matter in dispute between the same parties, in respect of same land and for the same relief has been dismissed in OS No.26/2020 and the appeal filed by the plaintiff is pending. As such, the present suit is not maintainable. It is contended that the plaintiff taking advantage of helplessness condition of defendant No.1 has filed the suit with the sole intention to grab

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the suit land by hook or crook. On these grounds, the defendants sought to dismiss the suit with costs.

10. The plaintiff has produced certified copy of unregistered vatani patra dated 20.07.2011, RTCs and copy of the registered sale deed dated 10.07.2024 and mutation.

11. The documents show that the suit land was standing in the name of defendant No.1 and she has executed registered sale deed dated 10.07.2024 in favour of defendant No.2 and 3. Accordingly, names of defendants No.2 and 3 are mutated to the records of suit land. There is no material produced by the plaintiff, at this stage, to show that he is in possession of the suit land. Moreover, the plaintiff's claim over the suit land has already been rejected by the Court in the suit OS No.26/2020. It is relevant to note that, in para 7 of the plaint it is stated that cause of action for filing the suit arose when the defendants No.2 and 3 illegally interfered in the suit property. However, the plaintiff is not seeking the relief of permanent injunction. The present suit is filed seeking mere declaration of title and to declare that the sale deed is not binding upon the plaintiff. There is no relief of permanent injunction sought by the plaintiff

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though he himself states that the defendants No.2 and 3 are interfering with his possession over the suit property. As such, the suit appears to be barred by the proviso appended to Section 34 of the Specific Relief Act. Hence, this court is of the opinion that, the plaintiff has failed to make a *prima facie* case. Accordingly, point No.1 is answered in the Negative.

12. **POINTS NO.2 AND 3:-** This Court has come to the conclusion that, the plaintiff has failed to prove that he has got a *prima facie* case in his favour. As such, questions of irreparable loss and balance of convenience do not survive for consideration. Hence, points under consideration are answered accordingly.

13. **POINT NO.4:** In view of the above discussion, the following:-

ORDER

I.A.No.1 filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby dismissed with costs of Rs.3,000/- each payable to defendants No.1 to 3 by the plaintiff.

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To hear both side on IA No.3.

Call on: 05.06.2026.

(Dictated to the stenographer, transcribed and typed by him and after corrections, pronounced in the Open Court on this the **26th day of March-2026**)

(Arun Chougule)
Prl.Civil Judge and J.M.F.C,
Yadgiri.