



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

PRESENT
SHOBHA, B.Sc. LLB.
Prl.Civil Judge and JMFC.,
Shahapur

O.S.No.85/2025

Date of order : 15th Day of November, 2025

Between:

1. Malppa S/o Dodda Dharmappa @ Dharmanna Hirekurbur
...Plaintiff/s.

-//Versus//-

1. Dodda Dharmappa @ Dharmanna S/o Siddappa
Hirekurbur and Others.
...Defendant/s.

IA No.I

1. Malppa S/o Dodda Dharmappa @ Dharmanna Hirekurbur
...Org. Plaintiff/ Applicant

-//Versus//-

1. Dodda Dharmappa @ Dharmanna S/o Siddappa
Hirekurbur and Others.
...Org. Defendants No.1 to 3/ Opponents.

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Applicant by Sri. MNP Advocate

Opponents Placed Exparte

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Provision under which the application is filed	Under Order 39 Rule 1 and 2 of CPC
Relief sought for	Partition and separate possession



The date on which the application is filed	04.03.2025
Number of the application	IA No.I
The date on which the objections are filed	Nil
The date on which the orders were passed on the said application	15.11.2025

ORDER ON IA NO.I
FILED U/O.39 RULE 1 & 2 OF CPC

I.A No.I is filed U/o 39 Rule 1 & 2 of C.P.C seeking Temporary Injunction against the defendants restraining them from alienating by way of mortgage, lease and any mode of transfer of suit lands Sy No.21/1 to the extent of 07 acres 01 guntas out of 12 acres 03 guntas situated at Hothpeth, Tq: Shahapur Dist.Yadgir till disposal of the suit.

2. In the accompanying affidavit, it is contended that, plaintiff and defendants No.2 & 3 are real brothers, defendant No.1 is the real father of plaintiff and defendants No.2 & 3, suit property is ancestral and joint family property of plaintiff and defendants, no partition is effected in between them, defendants taking undue advantage of entering their name in the ROR of suit land is bent upon to alienate the same, therefore the plaintiff asked the defendants to allot his legitimate share in the suit property, but the defendants have refused to do so, the



plaintiff has made out prima facie case and balance of convenience and injury, hence prayed to allow the application.

3. Notice and suit summons was issued to the defendants, they remained absent and placed Exparte.
4. Heard the counsel for plaintiff.
5. The points that arise for my consideration are as follows;

Points

Point No.1: *Whether the plaintiff has made out prima-facie case?*

Point No.2: *Whether the plaintiff proves that balance of convenience is in his favour?*

Point No.3: *Whether the plaintiff proves that, if T.I is not granted irreparable loss would be caused to him?*

Point No.4: *What order?*

6. My answers to the above points are as follows;

Point No.1 : Affirmative
Point No.2 : Affirmative
Point No.3 : Affirmative
Point No.4 : As per order.

REASONS

7. **Point No.1 to 3:-** Since these points are interconnected with each other they are taken together for common discussion to avoid repetition of facts. It is the case of plaintiff that, suit property is ancestral and joint family of plaintiff and defendants,



they are jointly cultivating the suit property, they are governed by Mitakshara school of Hindu law, no partition is effected between them, that the defendants taking undue advantage of the names entered in the RORs of suit land are trying to alienate the suit properties, they are trying to negotiate with the villagers, to deprive the right of the plaintiff and also they are not taking proper care in the agricultural operations, plaintiff requested his legitimate share, but the defendants went on postponing on one or the other reasons and thereby the present suit along with the petition is been filed.

8. Plaintiff has got produced the ROR in suit land Sy No.21/1 measuring 07 acres 01 guntas, on careful perusal of the said ROR, it is jointly standing in the name of Dodda Dharmappa, plaintiff, defendants No.2 & 3, such being the case, defendants without the consent of plaintiff cannot alienate the suit property since his name is forthcoming in the ROR, however it is the apprehension of the plaintiff that the defendants are trying to alienate and negotiate with the villagers and thereby, he has requested to give his separate share, it is also not the situation that, his name is forthcoming in the ROR, on perusal of the ROR, it reveals that, suit property is jointly standing in the name of plaintiff and defendants and has share over it. Plaintiff has made out prima facie case.

9. One of the principal consideration that is to be taken into account for grant of injunction is balance of convenience or



inconvenience. The other is existence of prima-facie case. The question involved in the present case in hand would be whether the plaintiff has got share in the suit land or not, all said facts are to be determined at the full fledged trial. If the T.I. is not granted, it would lead to multiplicity of proceedings and cause damage to the plaintiffs. Hence I am of the opinion that irreparable loss would be caused to the plaintiffs if T.I. is not granted. Hence I answer point No.1 to 3 in the ***Affirmative***.

10. Point No.4: In view of my discussion held above, I proceed to pass the following.

ORDER

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

The defendants are hereby temporarily restrained from alienating by way of mortgage, lease and any mode of transfer of suit land Sy No.21/1 to the extent of 07 acres 01 guntas out of 12 acres 03 guntas situated at Hothpeth, Tq: Shahapur Dist.Yadgir till disposal of the suit.

No order as to costs.

(Directly dictated to the Stenographer on computer, corrected and then pronounced by me in the Open Court on this the 15th day of November, 2025)

**(Shobha)
Prl Civil Judge and JMFC.
Shahapur**