

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC.,
SHAHAPUR.

Present: **Smt.Hema Pastapur**, B.A., LL.B.
Senior Civil Judge and JMFC,
Shahapur.

OS No.172/2023

Dated this 02nd day of June-2026

Plaintiff:- Ayyappa S/o Sanna Muneappa
Pujari, Age 50 years, Occ.
Agriculture, R/o Village Shirwal, Tq.
Shahapur, Dist. Yadgir.

(By Sri.N.L.M., Advocate)

Versus

Defendants:- 1. Bassamma W/o Sanna Muneappa
Pujari, Age 70 years, Occ.
Household,
2. Eshwar @ Essappa S/o Sanna
Muneappa Pujari, Age 48 years, Occ.
Agriculture,
3. Siddanna @ Siddappa S/o Sanna
Muneappa Pujari, Age 46 years, Occ.
Agricultural,
4. Jagadish S/o Eshwar @ Essappa,
Age 25 years, Occ. Agricultural,
All are R/o Sirwal, Tq. Shahapur,
Dist. Yadgir.

**(Defendant No.1 by Sri.V.R.D,
Advocate)**

**(Defendant No.2 & 4 by Sri. S.V.K.,
Advocate)**

**(Defendant No.3 by Sri.U.B.M.,
Advocate)**

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IA No.IV

Dated: 16-10-2024

Objections filed on 13-11-2024

Disposal off IA No.IV dated 02-06-2026

ORDER

1. That, the defendant No.3 filed the application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, with a prayer to restrain the plaintiff from interfering in his peaceful possession and enjoyment over the suit property bearing Sy.No.321/4 measuring 04 acres 21 guntas situated at Sirwal Village, Tq. Shahapur, Dist. Yadgir till final disposal of the present suit.

2. That, the defendant No.3 in his affidavit has contended that from the date of partition he is in possession and enjoyment of the said property and the plaintiff is in possession of Sy.No.168/5 measuring 04 acres 10 guntas and the plaintiff is having no right to interfere in his peaceful possession over the said suit land but, inspite of it he is obstructing from cultivating the said land.

3. That, the plaintiff filed her detailed objections to said application and has contended that the defendant has not made out

any prima facie case. Hence, the said application is liable to be rejected.

4. That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration and determination :-

1. Whether the defendant No.2 has made out the a prima-facie case and balance of convenience tilts in his favour and if interim injunction is not granted in his favour then irreparable injury causes to him?

2. What order?

5. That, on careful re-evaluation of the materials placed on record, My answer to the aforesaid points are as under:-

Point No.1 :- In the **NEGATIVE**.

Point No.2 :- As per the final order
for the following :-

REASONS

6. **Point No.1:** It is pertinent to note here that, the primary purpose for granting the interim relief is the preservation of the property in dispute till legal rights and conflicting claims of the parties before Court are adjudicated. In other words, the object of making an order

regarding the interim relief is to evolve a workable formula to the extent called for by the demands of situation, keeping in mind the pros and cons of the matter and striking a delicate balance between two conflicting interests i.e., injury and prejudice. That, generally before granting the interim injunction the Court must be satisfied about the following slots :-

(a) Prima - facie case: That, the Court must be satisfied that there is a bonafide dispute raised by the applicant. That, the existence of a prima-facie right and infraction of such right is a condition precedent for grant of temporary injunction.

(b) Irreparable Injury: That, the existence of prima facie case alone does not entitle the applicant for a temporary injunction. That, the Court must be satisfied that refusal to grant injunction would result in irreparable injury to the party seeking the relief and he needs to be protected from the consequences of the apprehended injury. That, the irreparable injury means that the injury must be a material one i.e. which cannot be adequately compensated by damages.

(c) Balance of convenience:- That, the third condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. That, in other words, the Court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it. That, the Court must weigh one need against another and determine where the balance of convenience lies.

7. It is significant to note here that, interim relief is an equitable relief and the party who seeks the equity must do the equity.

8. It is to be noted here that, present suit is one for Partition and Separate possession. It is settled law that no interim injunction can be granted against co-sharer. Hence, the plaintiff has not a prima-facie case and balance of convenience tilts in his favour and if interim relief is not granted in his favour then no irreparable injury cause to him. Accordingly, point No.1 is answered in the **NEGATIVE**.

9. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following :-

ORDER

That, the application filed by the
defendant No.3 under Order XXXIX Rule
1 and 2 of the Code of Civil Procedure, is
hereby rejected.

(Directly dictated to the typist-copyist, typed by him, corrected by me and then
pronounced in the open Court on this 02nd day of June-2026).

(Hema Pastapur)
Sr. Civil Judge & JMFC,
Shahapur.