

MHOS090016272023



**ORDER BELOW EXH.21**

1. The present application has been filed by the plaintiffs under order 39 rule 1 and 2 of the Code of Civil Procedure.
2. The plaintiff nos.1 & 2 are real sisters and plaintiff no.3 is their mother. The defendant no.3 and plaintiff no.3 are husband and wife. The defendant nos.1 & 2 are grandfather and grandmother of the plaintiff nos.1 & 2. The defendant no.4 is the daughter of the defendant nos.1 & 2 and sister-in-law of the plaintiff no.3.
3. The subject matter of suit are as follows :
  1. Land bearing block no.168 to the extent of 00 H 68 R assess 2 Rs. 11 Ps.
  2. Land bearing block no.173 to the extent of 01 H 01 R assess 4 Rs. 36 Ps.
  3. Land bearing block no.182 to the extent of 00 H 41 R assess 1 Rs. 51 Ps.
  4. Land bearing block no.179 to the extent of 00 H 20 R assess 0 Rs. 81 Ps.
  5. Land bearing block no.180 to the extent of 00 H 30 R assess 1 Rs. 20 Ps.
  6. Grampanchayat property no.69/3 admeasuring area East-West 33 ft. and South-North 33 ft.

(Herein after referred as '**suit properties**' for the sake of convenience)

4. The suit properties are situated at village Adsulwadi, Tq.Kallam, Dist.Dharashiv. Plaintiffs and defendants are the joint Hindu family members and the suit properties are their ancestral properties. The entry in the 7/12 extract has been recorded in the name of defendant nos.1 to 3. The suit properties are not partitioned yet. The plaintiff nos.1 to 3 have their 1/4th undivided share in the suit properties. On 01/07/2023 plaintiffs demanded their share to the defendants. But, defendants refused to do so. Therefore, plaintiffs inclined to file the present suit.

5. It is further contention of plaintiffs that, it will take time to decide the matter. Hence, plaintiffs filed the present application. The plaintiff have further submitted that they have prima-facie case, balance of convenience in their favour and it will cause irreparable loss to them, if the temporary injunction is not granted. Accordingly, they have prayed to allow the application.

6. Defendant nos.1 and 3 have filed their say on the instant application vide Exh.23. The defendant nos.1 & 3 denied all the contentions of the plaintiffs. According to them, the suit properties are independently owned by defendant no.3. The sister of the defendant no.3 have rights in the suit properties. The plaintiffs have filed the present false suit on the say of father of plaintiff no.3. The defendant no.3 has never sold any land, plot and house land. Land bearing Gat no.179 admeasuring area 00 H 20 R assess 00 Rs. 81 Ps. and land bearing no.180 admeasuring area 00 H 30 R assess 1 Rs. 20 Ps. situated at village Adsulwadi, Tq.Kallam are not ancestral properties. These properties are independently owned by defendant no.1 and his name is mutated in 7/12 extract of the said properties. Therefore, the plaintiffs have no any concern with the properties bearing Gat no.179 & 180. The

boundaries of the suit properties mentioned in the suit are false. False map has been attached with the suit. There is family dispute and only to harass the defendants, the plaintiffs have filed the present application. The plaintiffs have no any concern with the suit properties and have no any right to claim their share. Hence, prayed to reject the application.

7. Despite ample opportunities the defendant no.2 & 4 are failed to file their say on the instant application. Therefore, the application is proceeded without their say.

8. I have given due consideration to the rival submissions of the Ld. Advocates for the parties. Perused the entire compilation placed on record and also other documents produced by the advocates appearing for respective parties. Considering the record and pleadings, following points arise for my consideration, which I have recorded my findings thereon with reasons stated below:

| Sr.No. | Points                                                                                                                             | Findings            |
|--------|------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1.     | Whether the plaintiffs have made out prima-facie case to grant temporary injunction ?                                              | No.                 |
| 2.     | Whether the plaintiffs proves that balance of convenience lies in their favor ?                                                    | No.                 |
| 3.     | Whether the plaintiffs proves that if, the temporary injunction as prayed is not granted, then they will suffer irreparable loss ? | No.                 |
| 5.     | What Order ?                                                                                                                       | As per final Order. |

**REASONS**

9. In support of averments, the plaintiffs has produced copy of 8/A extract of Grampanchayat property no.69/3 at Exh.5, 7/12 extract of the Gat nos.182, 168, 173, 179 and 180 at Exh.6, 7, 8, 10 and 11 respectively, 8/A extract of account no.401 and 18 at Exh.9 and 12 respectively. Valuation copy of Grampanchayat house no.69/3. Digital copy of mutation entry no.246, 278 & 281 alongwith list at Exh.26. On the other hand the defendants have filed photo copy of sale deed bearing nos.1025/2024 & 1981/2005.

**POINT NOS.1 TO 3 :-**

10. Point nos.1 to 3 are interlinked to each other. Therefore, they are taken together for discussion to avoid repetitions.

11. In order to obtain an order of Temporary injunction under Order 39, **Rule (1) and (2) of Code of Civil Procedure, 1908**, it is for the plaintiff to establish that they have prima-facie case for grant of temporary injunction as prayed, that they would suffer irreparable loss if the temporary injunction as prayed for is not granted, and the balance of convenience lies in their favour. All these three aspects are based on law of equity and the relief of temporary injunction is discretionary one.

12. Both the application and say are supported by affidavits. The plaintiff and defendants have admitted their relation. It is the contention of the plaintiff that suit properties are not partitioned yet. Conversely, it is the contention of the defendant nos.1 & 2 that, the plaintiffs have no any concern and right to claim their share in the suit properties.

13. On perusal of the 7/12 extract and mutation entry no.246 it appears that, suit land in block no.182 is self acquired property of defendant no.1. Sale deed no.1025/2024 also supports the same. On

perusal of mutation entry no.281 it appears that, suit land admeasuring area 20 R from block no.179 and suit land admeasuring 30 R from block no.180 are also self acquired properties of defendant no.1. Sale deed no.1981/2005 also reveals the same. Revenue records and registered documents have presumptive value.

**14.** Prima-facie it appears that, suit properties also includes self acquired properties of defendant no.1. Besides, plaitinffs have not shown the material showing an attempt of the defendants to alienate the suit properties to grant the relief of temporary injunction.

**15.** In the backdrop of the aforesaid discussion, I am of the view that, plaintiffs do not have prima-facie case. As there is no prima-facie case, no question arises to balance of convenience and irreparable loss. Therefore, considering the discussion herein above, I answer point Nos. 1 to 3 **in the negative.**

**POINT NO. 4 :-**

**16.** Considering the discussion herein above and findings to the point Nos.1 to 3, I find the case is not fit to grant temporary injunction. Hence, the application liable to be reject. In answer to Point no.4, I pass following order-

**ORDER**

1. The application **Exh.21** is **rejected.**
2. No Order as to costs.

Place : Kallam  
Date : 11/08/2026

Sd/-  
(**Ms.Amruta D. Jadhav**)  
3<sup>rd</sup> Joint Civil Judge Junior Division,  
Kallam.

**CERTIFICATE**

I affirm that, the contents of this P.D.F file judgment are same, word to word, as per the original judgment.

|                      |                                                |
|----------------------|------------------------------------------------|
| Name of Stenographer | Shri. Prashant Sunita S. Ovhal                 |
| Court                | 3 <sup>rd</sup> Jt. C.J.J.D. & J.M.F.C. Kallam |
| Date                 | 11/08/2026                                     |
| Order signed by the  |                                                |
| Presiding officer on | 11/08/2026                                     |
| Order uploaded on    | 11/08/2026                                     |