

Order below Exh.5 in RCS 208/2023
Monappa Sonar Vs Ishwar Sonar
(CNR-MHSN08-001117-2023)

The interim injunction application is under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (the C.P.C).

2 Perused the application, and the record.

3 Heard Ld. Adv for the plaintiffs.

4 The suit is for partition and other consequential reliefs in respect of the suit property more particularly mentioned in para 1 of the plaint. It has been argued that the suit properties are the ancestral one of the plaintiffs, and defendants 1 to 3. The ME 1, 2830, 1577 are suggestive of the same vis-a-vis VF No.7 and 12. The defendants 4 and 5 are the purchaser of the property from defendant 1, who are about to further alienate the same. The earlier interim injunction application has not pressed. On or about 20/06/2025 the defendants have openly threatened to create third party, right, title and interest. Hence, the present application.

5 It is settled law, that for grant of ad-interim relief, an exceptional case of grave hardship, wherein, issuance of notice, to the other side may defeat the purpose of filing of the interim injunction application has to be prima-facie, made out.

6 On prima-facie, perusal of the material on record, the plaintiff and defendants appears to be the joint owners of the suit property i.e., the agricultural lands vis-a-vis the VF No.7 and 12 and the above ME. There is no partition by metes and bonds. Prima-facie, the respective joint area with four boundaries there of is a necessity when considered with the fact of sale by defendant 1 in favor of defendants 4 and 5 may be prima-facie, an apprehension and may create multiplicity of the proceedings. It is submitted that no injunction order etc., has been passed in the suit bearing RCS 165/2022 or having received caveat notice. Prima-facie, the plaintiff is not protected by way of short ad-interim relief, it may create multiplicity of the proceedings and may cause irreparable loss. Prima-facie, exceptional case of ad-interim relief is made out of certain condition. Hence the following

Order

Defendants 4 and 5 themselves, their agents, servants, attorney, or any body claiming through them are hereby temporarily restrained from creating a third party, right, title and interest in the suit property(ies) more particularly mentioned in Para 1 of the plaint (Ex.1) in any manner whatsoever, till next date.

2 The plaintiff to comply Order 39 Rule 3 of the CPC.

3 The plaintiff to serve suit summons and the notice of interim injunction application on the defendants via special bailiff.

4 The special bailiff be deposited within 4 days from todote.

5 Upon failure to comply the ad-interim order shall be deemed to be vacated.

Jath
Date: 25/06/2025

(Sanjay P.Bunde)
Jt.C.J.J.D, Jath