

KABR020029772025



IN THE COURT OF PRL. SENIOR CIVIL JUDGE
BENGALURU RURAL DISTRICT, BENGALURU

PRESENT:

SRI. ABDUL SALEEM. B.A. (LAW) LL.B,
Prl. Senior Civil Judge, Bengaluru Rural District,
Bengaluru.

O.S.No.1696/2025

Dated this the 11th day of August, 2026.

PLAINTIFFS: Smt. Bhagyamma and Others
(By Sri. V.K.- Advocate)

-Vs-

DEFENDANTS: Sri Nanjundappa and another
(By Sri B.S.R. – Advocate)

In I.A.No.I

Applicants/Plaintiffs: Smt. Bhagyamma & Others

Vs

Opponents/Defendants: Sri Nanjundappa & Others

Provision under which
the application is filed : Order 39 Rules 1 & 2 read
with Section 151 of CPC

Relief sought for : To restrain the defendants
from alienating the suit
schedule properties.

The application filed on : 02.09.2025

Number of applications : 01

The objection filed on : 10.02.2026

The date of order passed on : 11.08.2026

**Order on IA.No.I filed by the plaintiffs under Order
XXXIX Rules 1 & 2 read with Section 151 of CPC**

This IA is filed by the plaintiffs seeking an order of temporary injunction to restrain the defendants, their agents, servants, or anybody claiming under them from alienating the suit property pending disposal of the suit.

2. In support of IA No.1, the plaintiff No.3 filed an affidavit stating that plaintiff No. 1 is the mother and plaintiff No. 2 is her sister. The plaintiffs and defendant Nos. 1 and 2 are the sole owners in physical possession and enjoyment of the property bearing Survey No. 17/1 measuring 1 acre 13 guntas situated at Kattamanalloor village, Bidarahalli Hobli,

Bangalore East Taluk, which is the suit property. The suit property was acquired by the grandfather of plaintiff Nos. 2 and 3, Sri Nagappa, through a registered Sale Deed from Muthappa, Nallappa, and Sanjeeva Reddy. Following this, the revenue entries concerning the suit property were mutated in the name of Nagappa. Upon the demise of Sri Nagappa on 18.02.1982 leaving behind his children, the revenue entries concerning the suit property were mutated into the names of his three sons as per IHC MR No. 08.03.1984. After the demise of the husband of plaintiff No. 1, Sri Manjunatha (father of plaintiff Nos. 2 and 3) on 05.10.2022, the revenue entries were mutated into the names of the plaintiffs and defendant Nos. 1 and 2 as per MR H1/2024-2025. However, the defendants, in collusion with each other, filed an appeal before the Assistant Commissioner, Bangalore North Sub-Division, in RA (B) 45/2025 and obtained an order setting aside MR No. H1/2024-2025, mutating the revenue entries concerning the suit property into the names of defendant Nos. 1 and 2 alone. Taking advantage of the revenue entries standing in their names, defendant Nos. 1 and 2 are making active efforts to alienate the suit property. Hence, the plaintiffs filed the present suit seeking partition concerning the suit property along with the present IA, praying to allow IA No. 1.

3. The defendants entered appearance through their learned counsel and filed their written statement and objections to IA No. 1.

4. It is contended by the defendants that the plaintiffs are not entitled to the relief as prayed for in the plaint. The plaintiffs are guilty of suppression of material facts, and the suit has been filed by concealing an earlier partition as well as alienations made by the plaintiffs themselves.

5. It is further submitted that Sri Nagappa had various properties and left behind three children, namely Sri Nanjundappa,(the defendant No.) Sri Shivappa(the defendnat No.2), and Sri Manjunatha. Plaintiff No. 1 is the wife and plaintiff Nos. 2 and 3 are the children of late Manjunatha.

6. It is further contended that upon the demise of Sri Nagappa, the father of plaintiff Nos. 2 and 3 (Sri Manjunatha) and his brothers (Sri Nanjundappa/defendnat No.1 and Sri Shivappa/defendant No.2) effected a partition concerning their family properties on 29.11.1988. Under this partition, the following properties were allotted to the share of Sri Nanjundappa:

1. Property bearing Survey No. 17/1 measuring 26.5 guntas situated at Kattammannaluru village.
2. Property bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.
3. Property bearing Survey No. 14/1 measuring 1.9 guntas out of 32 guntas.
4. Property bearing Survey Nos. 139/2 and 139/3 measuring 8 guntas out of 23 guntas.
5. Kaneshmari No. 50, New No. 92, measuring 40 feet East to West and 30 feet North to South.

7. Further, the following properties were allotted to the share of Sri Shivappa:

1. Property bearing Survey No. 17/1 measuring 26.5 guntas out of 1 acre 13 guntas.
2. Land bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.
3. Land bearing Survey No. 14/1 measuring 1.8 guntas out of 32 guntas.
4. Land bearing Survey Nos. 139/2 and 139/3 measuring 7.5 guntas out of 23 guntas.
5. Kaneshmari No. 50, New No. 92, measuring East to West 35 feet and North to South 16 feet.
6. Property bearing Survey No. 14/1 measuring 1.33 guntas out of 4 guntas, which was Nagappa's ancestral property.

8. Further, the following properties were allotted to Sri Manjunatha:

1. Property bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.
2. Property bearing Survey No. 14/1 measuring 26.5 guntas out of 32 guntas.
3. Property bearing Survey No. 14/1 measuring 10.1.8 guntas out of 32 guntas.
4. Property bearing Survey Nos. 139/2 and 139/3 measuring 7 guntas out of 23 guntas.
5. Kaneshmari No. 50, New No. 92, with respect to the remaining measurement.

9. It is further contended that the above said partition was acted upon by the parties. Following the said partition, mutations were also effected in the names of the respective parties in terms of the partition.

10. It is further contended that the plaintiffs filed a previous suit in OS No. 1395/2022, wherein they admitted the above said partition among the brothers of late Sri Manjunatha.

11. It is further contended that during the lifetime of Sri Manjunatha, he along with the plaintiffs sold property bearing Survey No. 14/1 in favour of third parties under various sale

deeds. In the said sale deeds, there is a categorical recital that Sri Manjunatha acquired the said properties under the Panchayat Parikath dated 29.11.1988. The plaintiffs, by suppressing these material facts, have filed the present suit; therefore, they are not entitled to the equitable relief of injunction. Hence, the defendants prayed for rejection of IA No. 1 with exemplary costs.

12. Heard the arguments of learned counsels for plaintiffs and defendants. Perused the materials on record.

13. The learned counsel for the plaintiffs, reiterating the case of the plaintiffs, argued that the Sale Deed dated 24.04.1976 specifically discloses that the suit property was purchased by Sri Nagappa. It is not disputed that Sri Nagappa died leaving behind his three sons, namely Sri Nanjundappa, Sri Shivappa, and Sri Manjunatha. The plaintiffs, being the legal heirs of late Manjunatha, have a share in the suit property as they succeeded to it along with defendant Nos. 1 and 2 upon the demise of Sri Nagappa and Sri Manjunatha. However, defendant Nos. 1 and 2 clandestinely obtained an order from the Assistant Commissioner and are attempting to alienate the suit property. If the property is alienated during the pendency of the suit, it will create multiplicity of proceedings and cause

hardship to the plaintiffs. Hence, learned counsel prayed to allow IA No.1.

14. On the other hand, the learned counsel for the defendants vehemently argued that there is no dispute as to the relationship between the parties. However, the plaintiffs have suppressed material facts and approached this Court with unclean hands to claim the equitable relief of injunction.

15. It is further argued that after the death of Sri Nagappa, his three sons namely Sri Nanjundappa, Sri Shivappa, and Sri Manjunatha. They effected a partition on 29.11.1988 dividing all family properties among themselves. The said partition deed was acted upon, and revenue entries were mutated in their respective names. Subsequently, Sri Manjunatha during his lifetime, along with the plaintiffs, alienated several properties allotted to him under the partition through Sale Deeds dated 19.04.2002, 21.10.2004, 06.05.2010, 29.01.2014, 21.10.2014, and 28.04.2017. In the said sale deeds, there is a specific recital that Sri Manjunatha acquired all the conveyed properties through the partition deed dated 29.11.1988.

16. It is further argued that in the previous suit filed by plaintiff Nos. 2 and 3 in OS No. 1395/2012, the plaintiffs categorically admitted the partition between their father Sri Manjunatha and his brothers as per the partition deed dated 29.11.1988. Despite this, the plaintiffs filed the present suit claiming partition. Therefore, the plaintiffs are not entitled to relief. The plaintiffs have not only harassed the defendants but committed fraud on the Court by suppressing material facts. Therefore, IA No. 1 filed by the plaintiffs is liable to be dismissed with exemplary costs.

17. After hearing the argument and perusal of materials before the court, the following points arise for the consideration of the court :

POINTS

- 1) *Whether the plaintiffs have made out a prima facie case to obtain the relief of temporary injunction as prayed for?***
- 2) *Whether the balance of convenience lies in favour of the plaintiffs?***
- 3) *Whether plaintiffs will be put to irreparable loss and injury, if temporary injunction is not granted?***
- 4) *What order?***

18. Answers to the above points are as follows:

Point No. 1: In Negative

Point No. 2: In Negative

Point No. 3: In Negative

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

R E A S O N S

19. **Points No.1 to 3:-** Since these points are interrelated, they are taken up together for common discussion.

20. In the present IA, the plaintiffs seek an order of temporary injunction restraining the defendants from alienating, encumbering, or creating a charge over the suit schedule property pending disposal of the suit.

21. It is proper to bear in mind the principles of law governing the grant or refusal of injunctions. The grant or refusal of an injunction is fundamentally a discretionary relief guided by equitable considerations. The parameters guiding the grant of a temporary injunction include three fundamental elements: 1) existence of a prima facie case, 2) balance of convenience in favour of the applicant, and 3) risk of irreparable injury if the injunction is not granted.

22. Apart from these parameters, equitable principles also govern the grant or refusal of injunctions, as held in the decision reported in **1965 SCC OnLine Kar 6** in the case of **Lakshminarasimhiah and Others v. Yelakki Gowda**, wherein it was held as follows:

"11. Besides the above, there are certain equitable principles also which govern the Courts in granting or withholding of the relief of injunction. One of the main considerations is the fairness or good conduct of the party invoking the aid of the Court. The Court denies the relief to a suitor who is himself guilty of misconduct in respect of the matter in controversy. It is a well-known maxim of equity that 'He who comes into equity must come with clean hands,' or as otherwise expressed, 'He that hath committed inequity shall not have equity'. The wrong conduct of the plaintiff in the particular matter or transaction with respect to which he seeks injunctive relief precludes him from obtaining such relief. Injunction will not be granted in aid of possession secured by stratagem or trick."

23. Bearing in mind the above legal principles while deciding an application for temporary injunction, it is proper to examine the material produced before the Court to ascertain whether the plaintiffs have established all three ingredients for

the grant of an injunction and whether they have approached the Court with clean hands to obtain this equitable relief.

24. It is asserted by the plaintiffs that Sri Nagappa had three children, namely Sri Nanjundappa/the defendant No.1, Sri Shivappa/ the defendant No.2, and Sri Manjunatha. Plaintiff No. 1 is the wife of Sri Manjunatha, and plaintiff Nos. 2 and 3 are the children of plaintiff No. 1 and Sri Manjunatha, who died on 05.10.2020.

25. It is further asserted by the plaintiffs that the suit property, i.e., land bearing Survey No. 17/1 measuring 1 acre 13 guntas situated at Kattamanalloor Village, was acquired by Sri Nagappa through a registered Sale Deed dated 24.09.1976. After the demise of Sri Nagappa on 18.02.1982, the revenue entries concerning the suit property were mutated in the names of his three above-named sons. After the demise of Sri Manjunatha on 05.10.2020, the revenue entries concerning the suit property were mutated into the names of plaintiff No. 1 and defendant Nos. 1 and 2. However, defendant Nos. 1 and 2 thereafter obtained an order from the Assistant Commissioner in RA (B) No. 45/2025 deleting the name of plaintiff No. 1 from the revenue records. Defendant Nos. 1 and

2 then attempted to alienate the suit property, compelling the plaintiffs to file the present suit.

26. To support their assertions, the plaintiffs produced a copy of the Sale Deed dated 24.09.1976, which discloses that Sri Nagappa purchased the suit property from its vendor, Sri K. Mallappa.

27. The plaintiffs also produced the mutation order and RTC, which disclose that upon the demise of Sri Nagappa, the revenue entries concerning the suit property were mutated into the names of his three sons, namely Nanjundappa, Shivappa, and Manjunatha. The RTC produced concerning the suit property dated 02.05.2026 reflects the names of plaintiff No. 1 and defendant Nos. 1 and 2.

28. The defendants do not dispute the relationship between the plaintiffs and defendants, nor do they dispute the acquisition of the suit property by Sri Nagappa. However, it is vehemently contended by the defendants that Sri Nagappa had various properties and left behind three children namely Sri Nanjundappa, Sri Shivappa, and Sri Manjunatha. Plaintiff No. 1 is the wife and plaintiff Nos. 2 and 3 are the children of late Manjunatha.

29. It is further contended that upon the demise of Sri Nagappa, the father of plaintiff Nos. 2 and 3 (Sri Manjunatha) and his brothers (Sri Nanjundappa/ the defendant No.1 and Sri Shivappa/ the defendnat No.2) effected a partition concerning their family properties on 29.11.1988. Under this partition, the following properties were allotted to the share of Sri Nanjundappa:

1. Property bearing Survey No. 17/1 measuring 26.5 guntas situated at Kattammannaluru village.
2. Property bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.
3. Property bearing Survey No. 14/1 measuring 1.9 guntas out of 32 guntas.
4. Property bearing Survey Nos. 139/2 and 139/3 measuring 8 guntas out of 23 guntas.
5. Kaneshmari No. 50, New No. 92, measuring 40 feet East to West and 30 feet North to South.

30. Further, the following properties were allotted to the share of Sri Shivappa:

1. Property bearing Survey No. 17/1 measuring 26.5 guntas out of 1 acre 13 guntas.
2. Land bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.

3. Land bearing Survey No. 14/1 measuring 1.8 guntas out of 32 guntas.

4. Land bearing Survey Nos. 139/2 and 139/3 measuring 7.5 guntas out of 23 guntas.

5. Kaneshmari No. 5, New No. 92, measuring East to West 35 feet and North to South 16 feet.

6. Property bearing Survey No. 14/1 measuring 1.33 guntas out of 4 guntas, which was Nagappa's ancestral property.

31. Further, the following properties were allotted to Sri Manjunatha:

1. Property bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.

2. Property bearing Survey No. 14/1 measuring 26.5 guntas out of 32 guntas.

3. Property bearing Survey No. 14/1 measuring 10.1.8 guntas out of 32 guntas.

4. Property bearing Survey Nos. 139/2 and 139/3 measuring 7 guntas out of 23 guntas.

5. Kaneshmari No. 50, New No. 92, with respect to the remaining measurement.

32. It is further contended that the above said partition was acted upon by the parties, and mutations were effected in the names of the respective parties accordingly.

33. It is further contended that the plaintiffs filed a previous suit in OS No. 1395/2022, wherein they admitted the above said partition among the brothers of late Sri Manjunatha.

34. It is further contended that during the lifetime of Sri Manjunatha, he along with the plaintiffs sold property bearing Survey No. 14/1 in favour of third parties under various sale deeds, which contain categorical recitals that Sri Manjunatha acquired the properties under the Panchayat Parikath dated 29.11.1988. The plaintiffs, by suppressing these material facts, have filed the present suit, therefore, they are not entitled to the equitable relief of injunction.

35. The defendants produced three partition deeds dated 29.11.1988, which explicitly manifest that after the demise of Sri Nagappa, his three sons namely Nanjundappa/the defendant No.1, Sri. Shivappa/ the defendant No.2, and Sri Manjunatha (husband of plaintiff No. 1 and father of plaintiff Nos. 2 and 3) effected a partition concerning their family properties, wherein they allotted the properties among themselves as follows:

36. The following properties were allotted to the share of Sri Nanjundappa:

1. Property bearing Survey No. 17/1 measuring 26.5 guntas situated at Kattammannaluru village.

2. Property bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.

3. Property bearing Survey No. 14/1 measuring 1.9 guntas out of 32 guntas.

4. Property bearing Survey Nos. 139/2 and 139/3 measuring 8 guntas out of 23 guntas.

5. Kaneshmari No. 50, New No. 92, measuring 40 feet East to West and 30 feet North to South.

37. Further, the following properties were allotted to the share of Sri Shivappa:

1. Property bearing Survey No. 17/1 measuring 26.5 guntas out of 1 acre 13 guntas.

2. Land bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.

3. Land bearing Survey No. 14/1 measuring 1.8 guntas out of 32 guntas.

4. Land bearing Survey Nos. 139/2 and 139/3 measuring 7.5 guntas out of 23 guntas.

5. Kaneshmari No. 5, New No. 92, measuring East to West 35 feet and North to South 16 feet.

6. Property bearing Survey No. 14/1 measuring 1.33 guntas out of 4 guntas, which was Nagappa's ancestral property.

38. Further, the following properties were allotted to Sri Manjunatha:

1. Property bearing Survey No. 33 measuring 14 guntas out of 1 acre 2 guntas.
2. Property bearing Survey No. 14/1 measuring 26.5 guntas out of 32 guntas.
3. Property bearing Survey No. 14/1 measuring 10.1.8 guntas out of 32 guntas.
4. Property bearing Survey Nos. 139/2 and 139/3 measuring 7 guntas out of 23 guntas.
5. Kaneshmari No. 50, New No. 92, with respect to the remaining measurement.

39. Further, the Sale Deed dated 19.04.2002 executed by Sri Manjunatha, and the Sale Deeds dated 06.05.2010 and 28.04.2017 executed by Sri Manjunatha and the plaintiffs, categorically recite that Sri Manjunatha acquired the properties conveyed under the said sale deeds through the partition dated 29.11.1988 effected between him and his two brothers.

40. Further, in the plaint in OS No. 1395/2022 filed by plaintiff Nos. 2 and 3 for partition against plaintiff No. 1 herein and third-party purchasers in respect of land bearing Survey

No. 14/1 situated at Kattamanalloor Village, there is a specific admission that a partition took place between Sri Manjunatha and his two brothers as per the partition deed dated 29.11.1988.

41. Thus, from the material available before the Court, it is clear that during the lifetime of Sri Manjunatha, there was a partition between him and his two brothers as per the partition deed dated 29.11.1988, under which certain properties, including the suit property, were allotted and divided among Sri Manjunatha, Sri Nanjundappa, and Sri Shivappa. Further, the said partition deed was acted upon, as evinced in the above said sale deeds wherein Sri Manjunatha along with the plaintiffs asserted that the properties conveyed were acquired through the partition and sold some of those properties to different purchasers. Therefore, despite the existence of a partition and the plaintiffs enjoying its benefits, they have filed the present suit suppressing material facts. Consequently, the plaintiffs are guilty of suppression of material facts, and their conduct establishes that they have not approached the Court with clean hands. Hence, they are not entitled to the equitable relief of temporary injunction.

42. It is relevant to note that an obligation is cast upon a plaintiff to approach the Court with clean hands to obtain equitable relief. However, by suppressing material facts, the plaintiffs have attempted to obtain an order of temporary injunction, thereby abusing the process of law. Therefore, the present application is required to be dismissed with exemplary costs. In view of the above, the Court answers **Point Nos. 1 to 3 in the Negative.**

43. **Point No.4:-** In the result, this court proceeds to pass the following :

O R D E R

**I.A.No.I filed by the plaintiffs under
Order XXXIX Rules 1 & 2 read with Section 151
of CPC is rejected with cost of Rs.15,000/-.**

(Dictated through AI Adalath, corrected and then pronounced by me in
the open court this the **11th day of August, 2026.**)

(Abdul Saleem)
Prl. Senior Civil Judge,
Bengaluru Rural District, Bengaluru.

