

KABC010211522017



**IN THE COURT OF I ADDITIONAL CITY CIVIL &
SESSIONS JUDGE (CCH-02) AT BENGALURU**

PRESENT : **Sri. B.P. DEVAMANE, LL.M.,**
I Addl. City Civil & Sessions Judge,
Bengaluru City.

Dated this the 11th day of September 2025

O.S. 5921 / 2017

PLAINTIFF : **Mrs. Caroline Nivedita,**
W/o Benedict Praveen Kumar Caleb,
Aged about 42 years,
R/at New No.24, Old No.19,
1st Cross, 2nd Main, S.G. Palya,
BENGALURU – 560 019.

(By Sri. R.A. Dev Anand, Adv.)

- VS -

DEFENDANTS :

- 1. Mr. Benedict Praveen Kumar Caleb,**
S/o. Late Paul William Jayakumar Caleb,
Aged about 47 years,
- 2. Mrs. Kanaka Williams,**
W/o late Paul William Jayakumar Caleb,
Aged about 79 years.
D1 & D2 r/o # 72, 'Abharna',
Bhuvaneshwari Nagara,
C.V. Raman Nagara,
BENGALURU – 560 093.
- 3. Sri. Gali Linga Reddy,**
S/o Gali Bali Reddy,

4. Aged about 44 years,
Smt. Rajalakshmi Roopashree,
W/o Gali Linga Reddy,
Aged about 42 years.

D3 & D4 r/o # 8/230, 7th Cross,
1st Main, Sakamma layout,
B. Narayanapura,
BENGALURU – 560 016.

(D1 & D2 by Sri. A.M.R.;
D3 & D4 by Sri. P. Suresh , Advocates.)

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COMMON ORDER ON I.A. Nos.10, 11 & 13

Advocate for plaintiff filed I.A. No.10 under Order 39 Rules 1 & 2 r/w Section 151 of CPC with prayer to grant ad interim order of temporary injunction restraining defendant Nos.3 & 4 or anybody acting on their behalf from alienating or creating charge over the suit schedule property, pending disposal of the suit.

I.A. No.11 is filed by advocate for plaintiff under Order 39 Rules 1 & 2 r/w Section 151 CPC with prayer to grant ad interim order of temporary injunction restraining defendant Nos.3 & 4 or anybody acting on their behalf from effecting demolition of the suit schedule property, pending disposal of the suit.

I.A. No.13 is filed by advocate for plaintiff under Order 6 Rule 17 CPC with prayer to permit plaintiff to amend the plaint as per the proposed amendment stated in the IA which has become necessary after impleading defendant Nos.3 & 4, purchasers of suit property, during pendency of the suit.

2. In the affidavit supporting IA Nos.10 & 11, plaintiff contended that defendant No.1 during pendency of the suit to defeat the rights of plaintiff has sold suit property in favour of defendant Nos.3 & 4. Plaintiff came to know about sale of suit property in favour of defendant Nos.3 & 4 and issued notice to them. Defendant Nos.3 & 4 having knowledge about fraudulent means adopted by defendant No.1 have purchased the suit property and trying to further alienate or create charge over the suit property to defeat the rights of plaintiff in the suit property. As such, it is necessary to restrain defendant Nos.3 & 4 from alienating the suit property and also it is necessary to restrain them from demolishing the suit property, pending disposal of the suit.

3. In the affidavit supporting IA No.13 plaintiff contended that during pendency of the suit defendant No.1 in order to defraud plaintiff has sold suit property in favour of defendant Nos.3 & 4. After impleading defendant Nos.3 & 4, proposed amendment is necessary for proper adjudication of the matter. Hence, prayed to allow IA No.13.

4. Advocate for defendant Nos.3 & 4 filed objections to IA Nos.10 & 11 denying contents of said IAs. It is contended that plaintiff filed the suit for the relief of declaration & possession based on the alleged Will obtained from her father-in-law. Unless said Will is proved before the Court, plaintiff cannot seek the relief of temporary injunction as prayed in the IAs. Defendant Nos.3 & 4 are recently added to the proceedings and there were no allegations against them. If IAs are allowed, defendant Nos.3 & 4 will be put to untold hardship & irreparable loss which cannot be compensated in terms of money. Hence, prayed to reject IA Nos.10 & 11.

5. Advocate for defendant Nos.3 & 4 filed objections to IA No.13 denying the contents of said IA. It is further contended that plaintiff filed this frivolous IA only with an intention to drag the proceedings. Proposed amendment will change the nature of suit and cause of action. Suit is filed in the year 2017. Proposed amendment is barred by limitation. If the amendment is allowed, it would introduce new cause of action. Plaintiff has not made out any good grounds to allow IA. Hence, prayed to reject the IA.

6. Heard arguments. Perused the material on record.

7. Now the points that arise for my consideration are : -

1. Whether the plaintiff has made out prima facie case for grant of temporary injunction as prayed in I.A. Nos.10 & 11 ?
2. Whether the plaintiff will be put to great hardship in the event of temporary injunction is not granted as prayed in IA Nos.10 & 11 and the balance of convenience lies in her favour ?
3. Whether IA No.13 filed by plaintiff under Order 6 Rules 17 of CPC deserves to be allowed ?
4. What order ?

8. My answers to the above points are as under :

Point Nos.1 to 3 : In the Affirmative

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

REASONS

9. **POINT Nos.1 & 2** : Since both these points are interconnected with each other, they are taken up together for discussion in order to avoid repetition of facts.

Basically, P & SC No.277/2015 was filed by petitioner / plaintiff for probate of registered Will dated 12.08.2003 executed by her father-in-law bequeathing the suit property i.e., property bearing No.72 formed in Sy.No.145/2 measuring east-west 60 feet & north-south 50 feet, totally measuring 3,000 sq. ft., situated at Byrasandra (Bhuvaneshwari Nagara), K.R. Pura Hobli, Bengaluru East Taluk, in her favour. Defendant No.1 being husband and defendant No.2 being mother-in-law of plaintiff have appeared and opposed the petition. As such, P & SC is converted into O.S. After filing of the suit, defendants and sister of defendant No.1 have effected partition on 02.03.2015 and thereafter suit property has been sold in favour of defendant Nos.3 & 4 under registered sale deed dated 02.09.2024.

10. Petitioner / plaintiff filed P & SC which is converted into O.S., after the death of her father-in-law, who executed alleged registered Will bequeathing suit property in favour of plaintiff. During pendency of the suit, defendant Nos.1 & 2, who are husband and mother-in-law of plaintiff, have sold the suit property in favour of defendant Nos.3 & 4. It is basic principle of law that suit property is to be preserved until rights of the parties adjudicated by the Court. Admittedly, during pendency of the suit, suit property has been alienated by defendant Nos.1 & 2 in favour of defendant Nos.3 & 4. If defendant Nos.3 & 4 are not restrained from alienating and making alteration in the suit property, it will become difficult for plaintiff to use & enjoy the suit property, if she succeeds in the suit and would also

leads to multiplicity of proceedings. Hence, it is necessary to preserve the suit property, pending disposal of the suit. Thus, plaintiff has made out *prima facie* case and balance of convenience lies in her favour. As such, I answer **Point Nos.1 & 2** in the **Affirmative**.

11. **POINT No.3** : Admittedly, defendant Nos.3 & 4 have purchased suit property during pendency of the suit from defendant Nos.1 & 2. Thereafter, plaintiff impleaded defendant Nos.3 & 4 as parties to the proceedings. Plaintiff is praying this Court for amendment of plaint making necessary averments against defendant Nos.3 & 4 and necessary prayer. In view of the changed circumstances of the proceedings i.e., purchase of suit property by defendant Nos.3 & 4, it is essential for plaintiff to make necessary averments for proper adjudication of the matter. As such, the Court is of the considered opinion that proposed amendment is necessary for effective adjudication of real dispute between the parties. If the amendment is not allowed and necessary ingredients are not pleaded in the plaint, the Court cannot adjudicate the matter effectively. As such, I answer **Point No.3** in the **Affirmative**.

12. **POINT No.4** : In view of the above, I proceed to pass the following : -

ORDER

I.A. No.10 filed by plaintiff under Order 39 Rules 1 & 2 r/w Section 151 of CPC, is allowed.

Defendant Nos.3 & 4 or any persons acting on their behalf are restrained from alienating or creating charge over the suit property, pending disposal of the suit.

I.A. No.11 filed by plaintiff under Order 39 Rules 1 & 2 r/w Section 151 of CPC, is allowed.

Defendant Nos.3 & 4 or any persons acting on their behalf are restrained from demolishing or changing the nature of suit property, pending disposal of the suit.

I.A. No.13 filed by plaintiff under Order 6 Rule 17 of CPC, is allowed.

Plaintiff is permitted to carry out necessary amendment as prayed in I.A. No.13.

*Dictated to Senior Sheristadar (now under instructions to continue the work as Stenographer Grade I) directly on computer, computerized by him, revised, corrected by me and then pronounced in the open Court on this the **11th day of September 2025.***

(B.P. DEVAMANE)
I Addl. City Civil And
Sessions Judge (CCH-02),
Bengaluru City.