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IN THE COURT OF THE SENIOR CIVIL JUDGE
BAILHONGAL, AT: BAILHONGAL

PRESENT:

Smt. Usha Rani.R. B.A.L.,LL.M.,
Senior Civil Judge, Bailhongal.

Dated on this 29th Day of March 2023

ORIGINAL SUIT No.179/ 2022

Plaintiff : Sri. Shivashankar S/o Bsavanneppa
Parasappagol, Age: 38 years, Occ:
Agriculture, R/o: Tigadi, Tq: Bailhongal.

(By Shri. A.M.K., Advocate)

// Vs. //

Defendants : 1) Smt. Anita W/o Basavanneppa
Parasappagol, (Before marriage Anita D/o
Parushram Vaddebail), Age: 65 years, Occ:
Retired, R/o: Kakkeri, Tq: Khanapur, Dist:
Belagavi.

2) Sri. Adivappa S/o Mallawwa @ Parawwa
Pundapol, (Calling himself as Adivappa S/o
Basavanneppa Parasappagol, Age: 30 years,
Occ: Defense Service, R/o: Modaga,
Tq.&Dist: Belagavi.

(D-1: Absent)
(By Shri. S.R.S., Advocate for D2)

INTERLOCUTORY APPLICATION No.I

Applicant: Sri. Shivashankar S/o Bsavanneppa
Parasappagol, Age: 38 years, Occ:
Agriculture, R/o: Tigadi, Tq: Bailhongal.

(By Shri. A.M.K., Advocate)

// Vs. //

Respondent 1) Smt. Anita W/o Basavanneppa
s Parasappagol, (Before marriage Anita D/o
Parushram Vaddebail), Age: 65 years, Occ:
Retired, R/o: Kakkeri, Tq: Khanapur, Dist:
Belagavi.

2) Sri. Adivappa S/o Mallawwa @ Parawwa
Pundapol, (Calling himself as Adivappa S/o
Basavanneppa Parasappagol, Age: 30
years, Occ: Defense Service, R/o: Modaga,
Tq.&Dist: Belagavi.

(D-1: Absent)
(By Shri. S.R.S., Advocate for D2)

ORDER ON I.A.No.I

I.A. No.I is filed by the plaintiff under Order 39 Rules 1 and 2 of CPC seeking temporary injunction against the defendant No.2 or his agents from alienating the suit schedule properties till disposal of the suit. Injunction is also

sought for not transferring or raising any loan on the security of the suit properties.

2. In the accompany affidavit the plaintiff Shivashankar Basavanneppa Parasappagol has sworn to the facts that he is the plaintiff and defendant No.1 is his mother. They are owners in possession of the suit properties and they are joint owners. Defendant No.1 is the only legal heir to the deceased father Basavanneppa Shivappa Parasappagol and there is no partition till date in respect of the suit properties. Defendant No.2 is serving in defense and he is financially and politically influential, shrewd and scheming minded person. Defendant no 2 has in collusion with the revenue authorities managed to get entered his name in the records of the suit properties. Defendant No.2 is not at all concerned to the suit properties or their family. Hence it is necessary to restrain the defendant No.2 from alienating or raising any sort of loan over the suit properties.

3. Defendant No.2 appeared and contested the case. Defendant No.1 remained absent. Defendant No.2 has filed objections on the grounds that suit itself is not maintainable. Defendant No.2 has obtained suit property under oral partition and he has every right to deal with the same. Plaintiff has sought deal with the property obtained by him under oral partition and he has already sold it for an amount

of Rs.5,05,000/-. Therefore plaintiff is legally debarred from seeking extension or temporary injunction. There is no prima facie case and there is no right, title or interest over the suit properties. Defendant No.2 has filed written statement and prayed to treat the written statement averments as part and parcel of the objections to IA No.I.

4. It is specific defense of defendant No.2 that the suit is not maintainable for non-inclusion of necessary parties. The legally wedded wife of Basavanneppa is one Smt Parvatewwa and she is not made as a party to the suit. It is further contended that there are three sisters of defendant No.2 Sri Adivappa by name Neelavva, Shantawwa and Baby. Suit is bad for non-joinder of necessary parties for not including the daughters of the propositus. The suit itself is not maintainable. The court fee paid is not proper. There was already oral partition in the family in the year 2014 and plaintiff has already taken his share and already sold it. The present suit is barred by limitation. Further the mother of the plaintiff was a kept mistress of Basavanneppa and plaintiff is an illegitimate child born out of illegitimate relationship with Basavanneppa.

5. Further it is contended hat the plaintiff has given a false picture that defendant No.2 is not at all concerned to the family of the parties. In fact, the sisters of defendant

No.2 is not made a parties and therefore the suit is not maintainable. Further the allegations made in the plaint that defendant No.2 in collusion with the revenue authorities got entered his name is false. Infact, defendant No.2 has legitimate right over the suit schedule property.

6. The specific defense of the defendant is that, Basavanneppa used to visit Kakkeri only to have physical and biological satisfaction and defendant No.1 was kept mistress of Basavanneppa. The plaintiff is born to them and he is not the legitimate son. There was an oral partition in the family and therefore there is no question of further partitioning the suit properties. Suit of the Plaintiff itself is false and concocted. All the allegations of the plaint are categorically denied.

7. Defendant No.2 contends that Parvatewwa was married to Basavanneppa 60 years ago when she was hardly 15 years old as per the customs and she is the legally wedded wife of Basavanepa and they were recognized as legally wedded wife and husband till death of Basavanneppa. Out of the wedlock Basavanneppa and Parvatewwa gave birth to three daughters Neelavva, Shantavva and Baby and after some time they gave birth to son Adivappa i.e., defendant No.2. Therefore for not including these parties the suit is bad for non-joinder of necessary parties.

8. Further Sri Basavanneppa was a teacher and he was in contact with Smt. Anita of Kakkeri who was working as an Anganwadi teacher and they had some illegal relationship. Plaintiff is born out of the said illegal relationship.

9. Defendant No.2 has specifically set up a plea of oral partition. The plaintiff was addicted to bad habits and vices and he is in association with the antisocial elements. Efforts to rehabilitate him went in vain. Thus there was an oral partition and Rs no 197/2 B/1 measuring 1 acres 29 guntas and 4 lakh was given as share to the plaintiff. In and there was also Kabuli patra, wherein the plaintiff has acknowledged receipt of Rs.4,00,000/- from Basavanneppa and land in RS No.107/2B/1 measuring 01 acre 29 guntas towards his share. Kabuli patra is signed by the plaintiff on 25.11.2014. Therefore the plaintiff is not having any right, title or interest over the suit properties. Therefore the suit of the plaintiff itself is not maintainable.

10. In order to fulfill the vices the plaintiff sold his property allotted to him in the partition to one Shivanand Yallappa Rodasotti @ Rodasatt for consideration of Rs.5,05,000/- under a registered sale deed dated 25.01.2017. The wife of plaintiff also consented and signed on the sale deed as a consenting witness. Therefore the purchaser is in possession of the said land. Under the kabuli

patra plaintiff has endorsed his signature and he is not having any right over the suit properties. Therefore the defendant No.2 has become exclusive sole owner of the suit lands and therefore the present suit is not maintainable. Plaintiff has not come to the court with clean hands. There is no prima facie case in favour of plaintiff. On these grounds the defendant No.2 prays for dismissing the IA no 1.

11. Heard the arguments canvassed by the learned counsel for the plaintiff and defendants. Perused documents on record. Perused rulings relied by the defendant no 2.

12. The following points arise for consideration:

- 1) Whether the plaintiff has made out prima facie case in his favour?
- 2) Whether the balance of convenience lies in favour of the plaintiff ?
- 3) Whether the plaintiff will be put to irreparable loss or injury if the T.I as sought in I.A.No.1 is refused?
- 4) What Order or direction ?

13. My answer to the above points are as under:

Point No.1: In the negative

Point No.2: In the negative

Point No.3: In the negative

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

:: REASONS ::

14. **Point No.1:-** Law relating to grant or refusal to grant temporary injunction has been enunciated by the Honble Supreme Court of India and Honble High Court of Karnataka in a plethora of cases. The court while exercising its discretion applies the following tests-(i) whether the plaintiff has a prima facie case; (ii) whether the balance of convenience is in favour of the plaintiff; and (iii) whether the plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed. The decision whether or not to grant an interlocutory in injunction has to be taken at a time when the existence of the legal right assailed by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence.

15. Relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the plaintiff during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the

trial.

16. Keeping in mind the well settled legal principles regarding granting or refusal for granting Temporary Injunction enunciated in these decisions, the factual aspects of the case has to be embarked upon.

17. Under this IA the plaintiff is seeking temporary injunction against the defendant No.2 or his agents from alienating the suit schedule properties till disposal of the suit. According to the plaintiff he and defendant no.1 are the owners in possession of the suit properties and they are joint owners. Defendant No.1 is the only legal heir to the deceased father Basavanneppa Shivappa Parasappagol and there is no partition till date. Defendant No.2 in collusion with the revenue authorities managed to get entered his name in the records of the suit properties without any right or interest and thereby it is necessary to grant an order of injunction.

18. According to the defendant no.2 the suit itself is not maintainable and suit is bad for non joinder of necessary parties. Defendant No.2 has obtained suit property under oral partition. There was already an oral partition and share was already allotted to the plaintiff.

19. It is specifically contended that the legally wedded

wife of Basavanneppa is one Smt Parvatewwa and she is not made as a party to the suit. Suit is bad for non-joinder of necessary parties for not including the daughters of the propositus. There was already oral partition in the family in the year 2014 and plaintiff has already taken his share and sold his share of the property.

20. The specific defense of the defendant is that, Basavanneppa and defendant no.1 are not legally married couple and the plaintiff is an illegitimate son. Moreover there was an oral partition and RS No.197/2 B/1 measuring 1 acres 29 guntas and 4 lakh was given as share to the plaintiff and he has executed a consent deed / Kabuli patra.

21. In order to prove the prima facie case both the parties have relied on certain documents. Plaintiff has relied on RTC extracts of the suit properties, RTC extract of Sy.No.285 shows that it is standing in the name of defendant No.2 Parasappagaol Adivappa S/o Basavanneppa. All the RTC extracts of the suit properties item no.1 to 5 RS Nos.285/10, 285/12, 285/13, 285/ 14A old no RS no 285/9B+10+12+13+14 A measuring 6 acres 21 guntas are standing in the name of defendant No.2. Property register extracts of GP Nos.36, 37 and 38 are standing in the name of defendant no 2.

22. Plaintiff has produced Aadar card and SSLC marks

card of Shivashankar Parasappagol ie himself. Death verification extract of Basavanneppa Shivappa Parasappagol who died on 19.08.2020 is also produced. Plaintiff has produced all the RTC extracts and also mutation register extract, death certificate, copy of SSLC marks card and Resolution No.4/7 of Tigadi village. Resolution shows that Basavanneppa Parasappagol had relinquished his rights over GP no 36,37 and 38 in favor of his son Adivappa ie defendant no 2. In all the records the name of defendant no 2 is appearing.

23. Per contra, the defendants have produced number of documents including notarized copy of consent deed dated 01.07.2014 which shows that Shivashankar Basavenappa Parasappagol and Shobha wife of Shivashankar Parasappagol have executed consent deed in favor of Basavanneppa Shivappa Parasappagol wherein they have admitted receipt of Sy.No.107/2B/1 measuring 1 acre 29 guntas and Rs.4,0000/- cash and they have no right over other properties. Defendant No.2 also produced consent deed for having received Rs.2,00,000/- on 30-04-2014, relinquishment deed dated 11.09.2013 executed by plaintiff and his wife, Kabuli patra / consent deed dated 26.11.2014 executed by plaintiff and his wife.

24. The defendant No.2 has produced pension payment

order of father B.S.Parasappagol is produced wherein the spouse is shown as Parwatevva Parasappagol. Aadhar card of mother Parwatevva Parsappagol and sisters of defendant No.2 Neelawwa Prakash Pundapal, Lila Govind Walke, Beby Kokitkar, Adivappa Parasappagol, school certificate of Kashawwa Basavaneppa Parasappagol, Shantavva, school leaving certificate of Baby Basavanni Parasappagol and Adivappa are also produced. Copy of the Sale deed dated 25-01-2017 executed by the plaintiff Shivashankar Basavaneppa Parasappagol in favor of Shivanand Yallappa Rodsatti selling RS no 107/ 3, copy of paper publication, RTC extracts and mutation register extracts are also produced.

25. With these documents the plaintiff has argued that defendant No.2 has got his name entered in the records illegally and they have right over the suit properties. The suit cannot be dismissed for non joinder of necessary parties. If no injunction is granted the very filing of the suit will be frustrated.

26. Per contra, during the course of arguments it was argued by the learned counsel for the defendants that the wife of Basavanneppa i.e., Parvatevva Parasappagol is very much alive and her Aadhar card is also produced by the defendant No.2 which shows that she was born on 01.01.1953. Further he has also produced school certificate

of the sisters which clearly goes to show that the sisters are alive and plaintiff has not impleaded the sisters as parties to the suit and therefore the very suit is not maintainable. It was pointed out by the defendants that as per the pension papers, defendant No.2's mother is shown as the wife of propositus Basappa Parasappagol, ie Parvatewwa B. Parasappagol is shown as entitled for pension of the deceased and this document shows that she is legally wedded wife of deceased Basappa Parasappagol. Further the paper publication was pointed out stating that father during his life time gave paper publication stating that his son and himself are having no relationship, and they are not in cordial relationship and nobody shall deal with the son. Further RTC extracts and mutation extracts are also produced. The plaintiff has no right over the suit properties and there is no reason to allow the IA no 1.

27. To buttress his arguments the learned counsel for the defendants has relied on the following rulings;

(i) **(2007) 7 Supreme Court cases 695** in the case of **A. Venkatasubbiah Naidu V/s S. Chellappan and others**, wherein it is observed that, On account of failure of the court to pass final orders within thirty days as enjoined by Rule 3A "The aforesaid Rule casts a three - pronged protection to the party against whom the ex-parte injunction

order was passed. First is the legal obligation that the court shall make an endeavor to finally dispose of the application of injunction within the period of thirty days. Second is, the legal obligation that if for any valid reasons the court could not finally dispose of the application within the aforesaid time the court has to record the reasons therein in writing.

What would happen if a court does not do either of the course? We have to bear in mind that in such a case the court would have bypassed the three protective humps which the legislature has provided for the safety of the person against whom the order was passed without affording him an opportunity to have a say in the matter. First is that the court is obliged to give him notice before passing the order. It is only by way of a very exceptional contingency that the court is statutory obligation cast on the court to pass final orders on the application within the period of thirty days. Here also it is only in very exceptional cases that the court can bypass such a rule in which cases the legislature mandates on the court to have adequate reasons for such bypassing and to record those reasons in writing. If that hump is also bypassed by the court it is difficult to hold that the party affected by the order should necessarily be the sole sufferer.

It is the acknowledged position of law that no party can be forced to suffer for the inaction of the court or its omissions to act according to the procedure established by

law. Under the normal circumstances the aggrieved party can prefer an appeal only against an order passed under Rules 1,2, 2-A, 4 or 10 of Order 39 of the code in terms of Order 43 Rule 1 of the Code. He cannot approach the appellate or revisional court during the pendency of the application for grant of vacation of temporary injunction. In such circumstances the party which does not get justice due to the inaction of the court in following the mandate of law must have a remedy. So we are of the view that in a case where the mandate of Order 39 Rule 3-A of code is flouted, the aggrieved party, shall be entitled to the right of appeal notwithstanding the pendency of the application for grant or vacation of a temporary injunction, against the order remaining in force. In such appeal, if preferred, the appellate court shall be obliged to entertain the appeal and further to take note of the omission of the subordinate court in complying with the provisions of Rule 3-A in appropriate cases the appellate court, apart from granting or vacating or modifying the order of such injunction, may suggest suitable action against the erring judicial officer, including recommendation to take steps for making adverse entry in his ACRs. Failure to decide the application or vacate the ex parte temporary injunction shall, for the purposes of the appeal, be deemed to be the final order passed on the application for temporary injunction, on the date of expiry of third days mentioned in the Rule.

(ii) **AIR 2020 J and K 109** in the case of **Tariq Umar Sheikh V/s Zubair Khan and another on -29-06-2020**, wherein It is observed that “Besides this, the court below also held that the plaintiff had concealed the fact that he had earlier filed a suit for injunction against the defendant No.1 which had been dismissed and that having suffered dismissed he had raised a similar issued in the suit before it. The order further holds that the plaintiff had also concealed the fact that he had challenged the order of dismissal by way of an appeal before the Hon’ble High Court which was also dismissed and hence it held that having suppressed the material facts, the plaintiff was not entitled to any discretionary relief.”

(iii) **(2001)7 Supreme Court cases 417** in a case of **Mumbai International Airport Private Limited V/s Regency of Convention Center and Hotels Private Limited and others**, wherein it is observed that “ A necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “ necessary party” is not impleaded, the suit itself is liable to be dismissed. A “proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a

person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance. ”

(iv) **2011(4) Kar. L.J. 657** in a case of **G. Channarayappa and others V/s Lakshmi Malleables Private Limited Bangalore and another**, wherein it is observed that “One of the factors to be considered by the court while considering the case of temporary injunction is, whether prima facie case is made out by the plaintiff, which certainly would include the nature of the suit filed and its maintainability. The Trial court ought to have kept in view, whether the plaintiff could have obtained the relief relating to the subject – matter of the suit in the pending proceedings between the parties. The Trial court has not made any attempt to find out, whether the suit/s are maintainable, in view of the fact that, the matter relating to acquisition of the land of defendants 1 to 4 for the implementation of Nagarabhavi II stage Scheme by the 5th defendant, the formation of layout, substantial implementation of the scheme by the BDA, the allotment of sites formed therein by

the 5th defendant in favour of the plaintiff, are the subject-matter of consideration in Writ Appeal Nos.1490 and 1522 of 2009. “

28. The said rulings are received with utmost respect. In the first ruling relied it was observed that the when the court grant exparte interim injunction the IA should be disposed within 30 days. In the second ruling it was observed that where plaintiff has suppressed material facts he was not entitled for discretionary relief. In the third ruling it was observed where the plaintiff has not impleaded necessary parties suit is to be dismissed. In the last ruling it was observed that while granting temporary injunction the court must also ascertain prima facie case nature of the case and also maintainability of the suit.

29. On perusal of entire documents at this stage it is apparent that the plaintiff has sought for share in the suit properties. According to the plaintiff he himself and defendant No.1 are the members of the joint family and suit properties are belonging to them exclusively and defendant No.2 is not at all concerned to their family. But on perusal of the documents at this stage it prima facie shows that the name of the defendant No.2 is entered in the RTC extracts. According to the defendant No.2 Smt. Parvatewwa was legally wedded wife and defendant No.2 is the legitimate son

and not the plaintiff. Therefore there is very serious dispute regarding the relationship of the plaintiff as the legally born son ie legitimate son of Basavanneppa Parasappagol. The very status of the plaintiff and defendant No.1 is in dispute. This is a pre trial stage and when the case is in the infant stage when the court is considering the question of temporary injunction, the court cannot venture into a mini trial. It is not permissible for the court to marshal the entire documents on record and to discuss about the documents relied by the plaintiffs and defendants. To discuss about the relevancy admissibility of the documents produced by both sides a full fledged trial is necessary.

30. At this stage from the documents produced by the defendants it is apparent that Parvatewwa is receiving pension and it clearly indicates that she is legally wedded wife of Basavanneppa Parasappagol. The pension payment order of B. S. Parasappagol shows that the spouse is shown as Parwatevva Parasappagol. Copy of the Sale deed dated 25-01-2017 executed by the plaintiff Shivashankar Basavanneppa Parasappagol in favor of Shivanand Yallappa Rodsatti selling RS no 107/ 3 which clearly shows that the plaintiff has already sold one of the property. The copy of paper publication shows that the father had given public notice that the share of the plaintiff was already given and no one should deal with him.

31. On the other hand, the documents produced by the plaintiff does not show that Anita is the legally wedded wife of Basavanneppa Parasappagol. In fact no document is produced by the plaintiff to show status of plaintiff and defendant no 1 with Basavanneppa Parasappagol. Only the RTC extracts and mutation extracts that too which are currently standing in the name of defendant No.2 will not raise a presumption of jointness of the suit schedule properties.

32. At the outset it is apparent that the plaintiff has not impleaded all the daughters of the propositus as parties to the suit. The mother of the defendant No.2 is also not arrayed as party. No defendant No.2 doubt has taken contention that the suit itself is not maintainable for non-joinder of necessary parties. The question of non-joinder of necessary parties shall be considered, later subsequently at the relevant stage and not at this stage when the consideration is regarding the grant of temporary injunction.

33. Further on perusal of the documents produced by the defendants it is apparent that Paravatewwa was legally wedded wife. The court is yet to decide who is the legally wedded wife of Basavanneppa Parasappagol and who is the legitimate son and who is the illegitimate son. For

consideration of these aspects a full fledged trial is necessary. Therefore this court is of the opinion that it is necessary to proceed with the trial of the case to enable both the parties to prove their case by leading cogent evidence in support of their pleadings. At this stage there is no prima facie case for grant of temporary injunction. Therefore the plaintiff has failed to prove that there is a prima facie case in his favour.

34. Even otherwise for the sake of arguments if the suit properties are alienated during the pendency of the suit then Section 52 of the Transfer of Property Act will come into picture. Since the suit is already filed, any subsequent purchaser who would purchase the suit properties would step into the shoes of defendant No.2 and their rights would be subservient to the rights of the present defendant No.2. Further the rights of the purchaser would also be subject to the final out come of the decision that would be rendered in this case. Therefore even if the properties are alienated the right of the plaintiff will not be taken away. There are 8 properties.

35. Further it is argument of the learned counsel for the plaintiff that in the written statement defendants have not contended that he is not going to alienate the suit properties. Plaintiff cannot shift the burden on the defendant

No.2 to plead that he is not alienating the suit properties. But on the other hand, plaintiff has not pleaded from whom he learnt that defendant No.2 was trying to alienate the suit properties and what efforts were made by the defendant No.2 to sell the suit properties. Mere apprehension that defendant No.2 will alienate the suit properties is not sufficient. There must be an actual effort made towards alienation. When and through whom the plaintiffs learnt about alienation is not whispered. More over the present suit is filed for partition of the share of the plaintiff. If the plaintiff succeeds in proving that the suit properties are the joint family properties, he will be held entitled for share and the alienation if any made by the defendant No.2, will not bind their rights. Even otherwise any alienation during the pendency of any suit attracts the provisions of section 52 of Transfer of property Act. Such alienation will be bound by the decree passed in the said proceedings. There are also other properties available in which share of the plaintiffs can be decided and assigned. Under the said circumstances even if some of the suit lands are alienated the subsequent purchasers will step into the shoes of defendants and they would be bound by any decree passed in this suit.

36. Further grant of temporary injunction is an equitable relief and the plaintiff who seeks equity must do equity. But the plaintiff appears to have suppressed many facts before

the court. The plaintiff has not come to the court with clean hand and the conduct of the plaintiff is also to be looked into. As such the plaintiff failed to make out any prima facie case for granting the relief of injunction as prayed in I.A-I. Hence, the point No.1 is answered in the Negative.

37. **Point Nos.2 and 3:-** The plaintiff has not made out any prima facie case at this stage to be entitled for injunction as claimed in I.A.No.I. Plaintiff failed to prove that there is a prima facie case in his favour. Since the suit is filed for partition of the share of the plaintiff even if the plaintiff succeeds in proving that the suit properties are the joint family properties, he will be held entitled for share and alienation if any made by the defendants, will not bind his rights. As already observed alienation during the pendency of any suit attracts the provisions of section 52 of Transfer of property Act. As already stated there are 8 properties in which share can be carved to the plaintiffs. Thus there is no balance of convenience also. No irreparable injury would be caused if injunction is refused. Thus points No.2 and 3 are answered in the negative.

38. **Point No.4:-** In view of my above discussions I proceed to pass the following;

ORDER

The I.A.No.I filed by the plaintiff u/o
39 Rule 1 and 2 of CPC is hereby dismissed
with costs.

(Dictated to the stenographer, transcribed and computerized by him on
computer system and corrected by me, then pronounced by me in the Open Court,
on this the 29th day of March 2023)

(Smt.Usharani.R.)
Senior Civil Judge Bailhongal

