

KABG400006222021



IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,

CHIKODI

: PRESENT :

**SHRI. ARUN KUMAR G., BA. LL.B.
Prl. Senior Civil Judge, Chikodi.**

Dated this the 4th day of July - 2026

OS NO.192/2021

Plaintiff/s : Smt. Akkatai W/o. Sadashiv Dabb

-V/s-

**Defendant/s : Sri. Shankar Narasappa Kallolli alias
Ghatageppagol dead by his legal
heirs and others**

i. Provision under which the application is filed.	U/o.39 Rule 1 and 2 R/w. Sec.151 of CPC
ii. Relief sought for	Temporary Injunction
iii. The date in which the application is filed	11.06.2026
iv. Number of the application	IA No.VIII

v. The date on which the objections are filed by different opponents	20.06.2026
vi. The date on which the orders were passed on the said application.	04.07.2026

ORDERS ON IA NO.VIII

The defendant Nos.2 to 4 have filed IA No.VIII under Order 39 Rule 1 and 2 R/w. Sec.151 of CPC seeking an order of temporary injunction restraining the plaintiff from changing the revenue records of rights with respect to the suit properties till disposal of this suit.

2. In the affidavit it is stated that the plaintiff has filed the above suit for the relief of partition and separate possession stating that the suit properties are the ancestral and joint family properties and till this date and there was no partition among themselves. Further, they have contended that the partition was already taken place and the defendant Nos.5 to 7 have sold their properties in favour of the defendant Nos.3 and 4 and the deceased Shankar

Narasappa Kallolli alias Ghatageppagol has executed a Will in favour of the defendant No.4. Now, the case is setup for the evidence, at this stage the plaintiff has moved an application to make phodi with respect to the suit properties. Unless the matter is financially adjudicated the suit properties shall be preserved intact. Otherwise great hardship would be caused to the defendants. Hence, prays to allow the application.

3. The plaintiff has filed objections to the above application wherein he denied entire statements made by the defendants and further contended that the defendant have not filed any counter claim u/O.39 Rule 1 and 2 of CPC. The defendants cannot claim an order of injunction against the plaintiff and the same is devoid of merits with cost.

4. Based upon the above contentions of the parties, following points arise for consideration of this court:

1. Whether the plaintiff has made out prima-facie case in his favour ?

2. *Whether the balance of convenience lies in his favour ?*

3. *If temporary injunction is not granted who will suffer great hardship and injustice ?*

4. *What order ?*

5. Heard and perused. On due perusal of the records, the court findings on the above points are as under:

Point Nos.1 to 3 : In the Affirmative,

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

:: REASONS ::

6. Point Nos.1 to 3:- These points are inter-linked with each other. Therefore, in order to avoid the repetition of facts and circumstances, they are taken together at one stretch for common discussion.

7. The plaintiff has filed above suit against the defendants for the relief of partition and separate possession in respect of suit properties. When the case is posted for cross-examination of PW-1. The defendant Nos.2 to 4 have filed the above application seeking an order of temporary injunction. The defendants in support of their application have produced the copy of survey notice issued by Survey authority, Chikodi wherein the called upon the parties to be present at the time of survey of the properties bearing Sy.No.356/3B. Further on perusal of the revenue records produced by the plaintiff the copy of suit schedule properties are in the name of defendants. Whether the suit properties are belongs to joint family properties and the plaintiff is entitled an equal share in the suit properties or not it requires a full fledged trial. Furthermore, the defendants through their written statement they denied the existence of joint family a taken specific contention between the legal heirs of the deceased Narasappa there was oral partition which took place in the year 2001 and by the virtue of the same. They are in exclusive possession over their properties. The proof of

oral partition requires investigation. Therefore at this stage if the plaintiff allowed to change the documents with respect to the suit properties it may create multiplicity of proceedings between the parties. Further the plaintiff in support of the objection has produced a copy of judgment passed by the Hon'ble High Court of Karnataka reported in LAWS KAR 2014-9-249 passed in Shakuntalamma Vs. Kantamma wherein the Hon'ble court has held that the defendants cannot claimed in the relief of injunction u/O.39 Rule 1 of CPC and they have to filed application u/O.39 Rule 1(A) of CPC when there was a threat or damage alleged to be caused to the suit properties. Herein this case the plaintiff is claiming the partition against the defendants alleging that herself and defendants constitutes a Hindu undivided joint family. Therefore in a partition suit both the parties are having equal rights and status. Hence, the defendants are having authority to claim an order of temporary injunction against the plaintiff. At this stage, the defendant Nos.2 to 4 have made out the prima-facie case and balance of convenience is also lies in their favour if an order of

temporary injunction is not granted. The defendants may could be great loss and justice rather than the plaintiff. Hence, answered the point Nos.1 to 3 in the **Affirmative**.

8. Point No.4:- In view of the aforesaid findings on point Nos. 1 to 3, I proceed to pass the following:

ORDER

IA No.VIII filed by the defendant Nos.2 to 4 under Order 39 Rule 1 and 2 R/w. Sec.151 of CPC is hereby allowed.

The plaintiff is hereby restrained from changing the record of rights with respect to the suit properties pending disposal of this suit.

No order as to costs.

(Dictated to the stenographer, transcribed and typed by her and then corrected by me and pronounced in the open court on 4th day of July, 2026).

(ARUN KUMAR G.,)
Prl. Senior Civil Judge,
Chikodi.

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