

**IN THE COURT OF THE CIVIL JUDGE & JMFC.,  
AT SANDUR.**

**Present : Sri. Devaraddy** B.A., LL.B, LL.M.  
**Civil Judge & JMFC., Sandur.**

**Dated this the 12<sup>th</sup> day of July, 2023.**

**O.S. No. 124/2022.**

**Plaintiff** : Saduvanna.

**V/S**

**Defendants** : Thippeswamy and Others.

**I.A. No. I**

**Applicant /  
Plaintiff** : Saduvanna.

(By Sri. B.V.K. Advocate)

**V/S**

**Opponents/  
Defendants** : Thippeswamy and Others.

(D-1 by Sri. G.M. Advocate,  
D-2 Placed Exparte)

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**ORDERS ON I.A. No. I**

The plaintiff / applicant has filed IA No.I under Order XXXIX Rule 1 and 2 R/w Sec. 94 of C.P.C. and prays to pass temporary injunction order to restrain the defendant No.1 and 2 from alienating the suit schedule properties infavour of of third parties till disposal of the suit.

2. The said application filed by accompanying affidavit and in the affidavit it is stated that she has filed the suit against the defendants for the relief of partition and separate possession with regard to suit schedule properties. Further stated that her brother by name Thippeswamy has colluded with defendant No.8 and 9 as well as her sister-in-law by name Jayalakshmi, they are trying to alienate the suit schedule properties without welfare of the other coparceners as the RTC are standing in their name in favour of third parties. Further stated that she has made out prima-facie case and balance of convenience also lies in her favour. Further stated that if the defendant No.1 and 2 are succeeded in their act then she will be put great hardship and injustice. Further stated that if the application is allowed no hardship will be caused other side. Hence prays to allow the application.

3. The defendant No.2 has not appeared before the court even though suit summons duly served on her and

treated her as *exparte*. The defendant No.1 appeared before the court through his counsel but has not filed written statement as well as objection on this application even though sufficient time provided, for which, objection on I.A. No. I by defendant No.1 taken as nil.

4. Heard hearing on IA No. I.

5. On the basis of above contention, the following points arise for consideration.

1. *Whether the plaintiff/applicant proves that she has made out a prima facie case?*
2. *Whether the plaintiff/applicant proves that the balance of convenience lies in her favour?*
3. *Whether the plaintiff/applicant proves that she would suffer irreparable injury if temporary injunction is not granted in her favour?*
4. *What order?*

6. Based on the materials, the above said points are answered as under;

Point No.1 : **In the Affirmative.**

Point No.2 : **In the Affirmative.**

Point No.3 : **In the Affirmative.**

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

### **REASONS**

#### **Point No.1 :**

7. The plaintiff has filed the present suit against the defendants for the relief of partition and separate possession in respect to suit schedule properties. The plaintiff has also filed this application to restrain the defendant No.1 and 2 from alienating the suit schedule properties in favour of third parties till disposal of the suit.

8. The learned counsel for plaintiff submits that suit schedule properties are the ancestral and joint family properties of the plaintiff and defendant No.1 to 6, they are in joint possession of the said properties. Further submits

that the defendant No.1 and 2 are trying to alienate the suit schedule properties in favour of third parties in order to deprive her rights thereon. Further submits that plaintiff has made out prima-facie case and also balance of convenience lies in her favour. If the application is not allowed then she will be put irreparable loss and injury. Hence prays to allow the application.

9. As already stated above that the defendant No.1 has not filed objection on this application even though sufficient time provided thereon.

10. It is the plaintiff to prove that she has made out prima-facie case, for which, she has produced the documents, such as, Computerized RTC's, DCB registers and Computerized mutation registers.

11. On perusal of Computerized RTC's which are produced by the plaintiff, at this stage, it reveals that item No.1 to 5 of the suit schedule properties originally belongs to Hanumanthappa. On perusal of Computerized RTC's for

the year 2021-22, which are produced by the plaintiff, at this stage it reveals that item No.1 to 5 of the suit schedule properties are standing in the name of plaintiff and defendant No.1. On perusal of DCB registers for the year 2021-22 produced by the plaintiff, at this stage, it reveals that item No.6 of the suit schedule property has been standing in the name of plaintiff and item No.7 of the suit schedule property has been standing in the name of defendant No.1.

12. It is the specific contention of the plaintiff that herself and defendant No.1 to 6 are the children of Hanumanthappa and Nagamma, they are having equal share and interest over the suit schedule properties. Further contended that the defendant No.1 and 2 are intending to sell the suit schedule properties in favour of defendant No.8 and 9 and other third parties in order to deprive her rights over the said properties. As already stated above that the defendant No.1 and 2 have not

challenged and questioned the contention taken by the plaintiff in the present application. For which, the contention taken by the plaintiff remained unquestioned. Moreover, it is just and necessary to preserve the suit schedule properties to adjudicate the dispute between the parties with regard to said properties till disposal of the suit.

13. From going through the above said discussion and grounds and also materials available on record, at this stage, it reveals that plaintiff has made out prima-facie case. Hence, Point No.1 is answered in the **Affirmative**.

**Point No.2:**

14. The plaintiff has produced the documents in respect of suit schedule properties to show that, she has made out prima-facie case. Based on documents adduced by the plaintiff, it shows that, the balance of convenience also lies in favour of the plaintiff. Hence, in view of the

above discussion, the Point No.2 is answered in the **Affirmative.**

**Point No.3 :**

15. On the basis of contention has taken by the plaintiff and defendants and also based on the documents produced by the parties and as the plaintiff /applicant has made out prima-facie case and also balance of convenience lies in her favour, it is very clearly show that, if the temporary injunction order is not granted it is the plaintiff who will be caused great hardship and irreparable loss than the defendants. Hence, the Point No.3 is answered in the **Affirmative.**

**Point No.4 :**

16. In view of discussion of Point No.1 to 3, this court proceed to pass the following;

**ORDER**

I.A. No.I filed by the plaintiff Under Order 39 Rule 1 and 2 R/W/S 94 of C.P.C., is hereby allowed.

The defendant No.1 and 2 are hereby restrained from alienating the suit schedule properties till disposal of the suit.

No order as to costs.

[Dictated to the Stenographer, transcribed by him, corrected by me and then pronounced in the open court on this day of **12<sup>th</sup> day of July, 2023**]

**(Devaraddy)**

Civil Judge and J.M.F.C.,  
Sandur.