

KABR210013762015



**IN THE COURT OF THE II ADDL. SENIOR CIVIL JUDGE
AND JMFC, AT ANEKAL**

Dated this 12th day of January, 2026

PRESENT : SRI. MANJUNATHA M. B.A.(L), LL.B.
II Addl. Senior Civil Judge & JMFC,
Anekal.

O.S.No.1056/2015

PLAINTIFF/S:

1. Sri. Balappa
S/o late Muni Gurappa,
aged about 85 years,
2. Sri. Muniswamappa
S/o late Munigurappa,
aged about 83 years,
3. Sri. Muniraju
S/o late Chinnappa,
aged about 45 years,

Plaintiff No.1 to 3 are
R/at Channena Agrahara,
Denkinikote Taluk,

Krishnagiri District,
Tamilnadu.

4. Sri. Ramakrishnappa
S/o late Munigurappa,
aged about 78 years,
R/at Bahadurpura,
Ward No.23, Anekal Town,
Bengaluru Urban District.

(Rep. By Sri. N.K.V., Advocate)

V/s

DEFENDANT/S:

1. Smt. Munirathnamma
D/o late Muniyappa,
aged about 45 years,
2. Sri. Narayana Swamy
S/o late Muniyappa,
aged about 45 years,

Defendant No.1 and 2 are
R/at Krishnayyana Doddi,
Jigani Hobli, Anekal Taluk,
Bengaluru Urban District.

3. Smt. Yashoda
D/o late Muniyappa,
aged about 40 years,
R/at Vittasandra, Begur Hobli,
Bengaluru South Taluk,
Bengaluru.

4. Smt. Venkatalakshmi
D/o late Muniyappa,
aged about 38 years,
R/at Sevaganapalli village,
Hosur Taluk,
Krishnagiri District, Tamilnadu.
5. Sri. Gurappa
S/o late Ramaiah,
aged about 46 years,
6. Sri. Venkataswamy
S/o late Ramaiah,
aged about 45 years,
7. Sri. Nagappa
S/o late Ramaiah,
aged about 43 years,
8. Sri. Gopal
S/o late Ramaiah,
aged about 41 years,
9. Sri. Narayana
S/o late Ramaiah,
aged about 38 years,

Defendants No.5 to 9 are
R/at Channena Agrahara,
Denkinikote Taluk,
Krishnagiri District,
Tamilnadu.

10. Sri. M.Ajja Reddy
S/o late Mopu Reddy,
aged about 80 years,

R/at Jigani village,
Jigani Hobli, Anekal Taluk,
Bengaluru Urban District.

PARTIES ON IA.NO.II

**Applicants /
Plaintiff No.3**

Sri. Muniraju & Others

V/s

**Opponents /
Defendants**

Smt. Munirathnamma & Others

ORDERS ON I.A.NO.II

I.A.No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 r/w Sec.151 of CPC, praying for Temporary Injunction to restrain defendant No.2 from constructing building in Item No.1 of plaint schedule property till disposal of suit.

2. In support of application, plaintiff No.3 sworn to an affidavit and pleaded that defendant No.2 appeared before the court, but not filed written statement. They filed IA.No.I for interim injunction. During pendency of suit, defendant No.2 illegally constructed construction in Item No.1 of plaint schedule property. They are also having definite share in Item No.1 of plaint schedule property and it is their ancestral property. If defendant No.2 succeeded in constructing

construction in Item No.1 property, then they will put to hardship and injury, hence, application.

3. Defendant No.2 filed written statement and memo to adopt the written statement as objection to IA.No.II. In the written statement filed by the defendant No.2, he admitted the relationship and denied other averments of plaint and contended that Item No.1 of plaint schedule is self-acquired property of Muni Gurappa, which was purchased by him through Sale Deed dated 16.06.1961. During lifetime of Muni Gurappa, he bequeathed Item No.1 of the plaint schedule in favour of his son, Muniyappa through Will dated 19.03.1990. From the date of Will, their father was in possession of suit schedule properties. In the Will, their grandfather clearly stated that he divided his self-acquired properties and ancestral properties among his children. After death of their father, himself and defendant No.1, 3 and 4 are in possession of Item No.1 of plaint schedule properties. Muni Gurappa during his lifetime, partitioned properties among his children. On the basis of Will, revenue records were mutated in the name of their father. After death of their father, revenue records were mutated in the name of defendant No.1. Their grandfather purchased Item No.2 of plaint schedule property on 03.01.1972 through registered Sale Deed. Item No.2 of plaint schedule property is self-acquired property of their

grandfather. During lifetime of their grandfather, he availed loan from Bukkasagara Seva Sahakara Sangha and for his legal necessities sold Item No.2 in favour of one Rajanna through Sale Deed dated 06.03.1979, in turn, Rajanna sold property in favour of defendant No.10 through Sale Deed dated 28.08.1995, thereafter, for his legal necessities, out of 02 acres, himself and his wife sold 20 guntas of land in favour of one Sathyavathi through Sale Deed dated 15.04.2011. On the basis of Will, their father was in possession of suit schedule properties. After death of their father, they are in possession of suit schedule properties. Their father executed Release Deed in favour of plaintiffs and father of defendant No.5 to 9 with respect to joint family properties likewise, plaintiffs and father of defendant No.5 to 9 executed Release Deed in favour of their father through Release Deed dated 20.02.2007. Plaintiffs and father of defendant No.5 to 9 had no right over suit schedule properties. They constructed cattle shed in Item No.1 of plaint schedule property and they are constructing labour quarters. Item No.1 of plaint schedule is absolute property of Muni Gurappa. He bequeathed same in favour of their father. There is no joint family between plaintiffs and defendants. Joint family was divided in the year 1990. Properties sold by Muni Gurappa were his absolute properties, hence, his legal heirs had no right to question the

sale, hence, prayed to dismiss application and suit.

4. Heard both side and perused materials placed before the court.

5. Now the points that would arises for consideration are ;

POINTS

1. Does plaintiffs are made out prima facia case ?
2. Does balance of convenience lies in favour of plaintiffs ?
3. Does plaintiffs will suffer injury, if injunction is refused ?
4. What order ?

6. By considering the arguments of learned counsels and materials placed before the court, above points are answered as below ;

- | | |
|--------------|--|
| Point No.1 : | In the Negative |
| Point No.2 : | Does not survive for consideration |
| Point No.3 : | Does not survive for consideration |
| Point No.4 : | As per the final order for the following ; |

:- R E A S O N S :-

7. **Point No.1:-** According to plaintiffs, themselves and defendant No.1 to 9 are joint family members and suit schedule properties are joint family properties. Relationship between parties is not in dispute. They also admitted that Item No.1 of plaint schedule was purchased by Muni Gurappa through Sale Deed dated 16.06.1961. Will produced by the defendants dated 19.03.1990 discloses that during lifetime of Muni Gurappa, he bequeathed Item No.1 of the plaint schedule property in favour of father of defendant No.1 to 4 through registered Will. On the basis of Will, revenue records were also mutated in the name of father of defendant No.1 to 4. After death of father of defendant No.1 to 4, revenue records were transferred in the name of defendant No.1. Will yet to prove, but it is registered document. Contents of Will discloses that there was partition between children of Muni Gurappa. Self-acquired properties and joint family properties of Muni Gurappa were allotted to plaintiffs and father of defendant No.5 to 9. Item No.1 was bequeathed to father of defendant No.1 to 4. The Release Deed executed by father of defendant No.1 to 4 is placed before the court. Release Deed is in Tamil Version and copy of Release Deed is placed before the court, it discloses that father of defendant No.1 to 4 released his 1/6th share in the joint family properties. In the

Release deed, it is also stated that which properties are joint family properties. In the Release Deed, suit schedule properties are not included. This probabalizes that suit schedule properties are not joint family properties. Recitals in the Will, prima facia shows that there was partition between children of Muni Gurappa, at this stage, case of plaintiffs is doubtful, hence, this Point answered *in the Negative*.

8. **Point No.2 & 3:-** These points involves common question of facts, hence, taken together for discussion to avoid repetition of facts and for convenience.

Plaintiffs failed to establish prima facia case. When plaintiffs failed to establish prima facia case, question of balance of convenience and injury does not arise, hence, these points does not survive for consideration.

9. **Point No.4:-** For the reasons assigned to Point No.1 to 3, resulted in following :-

ORDER

IA.No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 r/w Sec.151 of CPC, is dismissed.

Exparte order granted in favour
of plaintiffs is stands vacated.

No order as to the cost.

(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in the
open court, on this, **the 12th day of January, 2026**)

(MANJUNATHA M.)

II Addl. Senior Civil Judge & JMFC.,
Anekal.

