

KABR210014682022



**IN THE COURT OF Prl. SENIOR CIVIL JUDGE &
JMFC, ANEKAL.**

DATED THIS THE 17th DAY OF MARCH 2026

PRESENT

Sri. Krishna Raj K., B.A., LL.B.,
Prl. Senior Civil Judge & JMFC.,
Anekal.

O.S No.1069 / 2022

Plaintiff/s: 1. Sri. Shankarappa
Aged about 55 years,
S/o Late Sadappa,
R/at – Bandapura Village,
Kasaba Hobli, Anekal Taluk,
Bangalore Urban District.
And another.

(By Sri. P.B., Adv)

V/s

Defendant/s: 1. Sri. Muniyappa
Aged about 58 years,
S/o Late Papanna,
R/at – Bandapura Village,
Kasaba Hobli, Anekal Taluk,
Bengaluru Urban District.

And others.

(By Sri. B.V.K., Adv)

ORDER ON IA.No.1

IA.No.1 is filed by the plaintiffs U/o 39 Rule 1 & 2 R/w. Sec.151 of CPC seeking an order of temporary injunction restraining the defendants from alienating or creating any kind of charge over the suit schedule property pending disposal of the suit.

2. In the accompanying affidavit, the plaintiffs have reiterated the averments of the plaint and deposed that the suit schedule property is ancestral joint family property, the plaintiffs are entitle to legitimate share by partition and separate possession. The defendants are trying to alienate the suit schedule property pending disposal of the suit. The defendant No.5 has filed his written statement and adopted the written statement as objections to the above application.

3. Heard the arguments of learned counsel for plaintiffs and defendants. Perused the written arguments submitted by the learned counsel for plaintiffs.

4. The points that would arises for consideration of this court are;

POINTS

1. Whether the plaintiff has made out prima-facie of case to grant temporary injunction as sought in IA No.1 ?
2. In whose favour the balance of convenience lies ?
3. Who will suffer irreparable injury, if temporary injunction is granted or refused ?
4. What order ?
5. My findings on the above points are as under;
 - Point No.1 : In the Negative,
 - Point No.2 : In favour of the defendants,
 - Point No.3 : The defendants will suffer irreparable injury, if temporary injunction is granted in favour of the plaintiff,
 - Point No.4 : As per the final order for the following reasons :

REASONS

6. **Point Nos.1 to 3** :- The above points are inter-connected with each other and requires similar and identical discussion. Therefore all the above points were taken up together

for common discussion.

7. It is the specific case of the plaintiffs that the original prepositor Sadappa had wife Smt. Kenchamma and he died leaving behind their two children namely Channappa and Papanna. Sadappa married one Ramakka as a second marriage. Out of the said wedlock, he had one son namely Shankarappa. The plaintiffs and defendant Nos.1 & 2 are members of Hindu joint family. The defendant Nos.3 to 8 are strangers to the joint family of the plaintiffs. The suit schedule property bearing Sy.No.217 measuring 3 acres situated at Madivala Village, Kasaba Hobli, Anekal Taluk was granted by the Tahasildar in favour of Sadappa under proceedings No.LND.SR.128/1959-60 dated 18.06.1959 with condition of non-alienation clause for period of 15 years. The revenue records got mutated in the name of Sadappa. The defendant No.2 got created the sale deed in the name of Muniswamy Reddy by playing fraud and misrepresentation on 08.09.1960. The defendant No.2 on behalf of the plaintiff and other family members challenged the said sale deed before the Assistant Commissioner in K.SC.ST.No.56/2012-13 and K.SC.ST(A).105/2006-07. The said petition came to be allowed and the sale deeds were set aside and suit schedule property was restored to the benefit of the entire joint family.

Being aggrieved, the purchasers have preferred appeal before the Deputy Commissioner in SC.ST.A.97/2013-14. The said appeal also came to be dismissed. The suit schedule property is ancestral joint family property. There was no division by metes and bounds. Hence the plaintiffs are constrained to file the above suit for partition and separate possession claiming 1/3rd share and consequential relief of declaration to declare that the sale deed dated 08.09.1960 is not binding on the share of the plaintiffs.

8. The defendant No.5 in his written statement denied the averments of the plaint and contended that the property bearing Sy.No.217 measuring 8 acres situated at Madiwala Village was government land out of it, 2 acre of land was granted in favour of Sadappa under proceedings No.LND.SR.128/1959-60 dated 18.06.1959. For the family legal necessities, the said Sadappa alienated 1 acre of land under registered sale deed dated 08.09.1960 in favour of father of defendant No.5 namely Siddareddy. Another extent of 19 guntas was also sold in favour of Siddareddy. Remaining 14 guntas were sold out in favour of father of defendant Nos.3, 4 & 6 namely Venkataswamy under registered sale deed dated 31.12.1962. Subsequently there was partition between the family members of Siddareddy by way of panchayath partition deed dated 27.05.1991. In the said partition

deed, the property purchased under two registered sale deeds dated 08.09.1960 and 31.12.1962 was allotted towards the share of defendant No.5. The defendant No.5 has challenged the order passed by the Assistant Commissioner and Deputy Commissioner before the Hon'ble High Court of Karnataka in WP No.34038/2018. The writ petition was allowed on 09.08.2021. during the pendency of the writ petition, the plaintiffs and other legal heirs of Sadappa have jointly executed release deed dated 16.08.2018 in favour of the defendant No.2. The defendant Nos.1 & 2 have challenged the order passed in the said writ petition by filing writ appeal in WP No.1054/2021. The said writ appeal also came to be dismissed on 02.03.2022. Under such circumstances, the said sale deeds dated 08.09.1960 and 31.12.1962 has been upheld by the Hon'ble High Court of Karnataka. Suppressing the said material facts, the plaintiffs have filed the false suit. The suit schedule property is no more joint family property. The suit schedule property was already alienated in favour of father of defendant Nos.3 to 6. Hence the suit itself is not maintainable.

9. In support of the case of the plaintiffs, the plaintiffs have produced copy of the family tree, tax paid receipts, RTC extracts, mutation extract, encumbrance certificate, copy of the sale deed, settlement akarband, copy of order passed by the

Assistant Commissioner and Deputy Commissioner. On the other hand, the defendant No.5 has produced copy of the sale deeds, copy of partition deed, order passed by the Assistant Commissioner and Deputy Commissioner, copy of orders in WP No.34038/2018 and WA.No.1054/2021, RTC extracts and copy of release deed.

10. The learned counsel for plaintiffs argued that the suit schedule property is their ancestral joint family property. The plaintiffs are entitle to legitimate share by partition and separate possession. The plaintiffs are not parties to any of the proceedings before the Assistant Commissioner, Deputy Commissioner or before the Hon'ble High Court of Karnataka. The said sale deeds are not binding on the plaintiffs. The plaintiffs have made out prima-facie of case to grant temporary injunction in their favour. On the other hand, the learned counsel for defendants argued that the plaintiffs are relying on the order passed by the Assistant Commissioner and Deputy Commissioner. Th said orders has been set aside by the Hon'ble High Court of Karnataka in the writ petition and subsequently it was confirmed in the writ appeal. Therefore there is no restoration of the suit schedule property to the family of the plaintiffs. Under such circumstances, question of filing the present suit for partition and

separate possession does not arise. The plaintiffs have suppressed the material facts and approached the Court with unclean hand. Hence temporary injunction cannot be granted in favour of the plaintiffs.

11. In the light of the arguments advanced by both side, I have perused the entire material on record. The plaintiffs are claiming that the sale deed executed by Sadappa before the completion of non-alienation clause under the registered sale deeds dated 08.09.1960 was set aside by the Assistant Commissioner in K.SC.ST.105/2006-07 and K.SC.ST.56/2012-13. The plaintiffs are claiming that the said order passed by the Assistant Commissioner has been confirmed by the Deputy Commissioner in SC.ST.(A).97/2013-14. Therefore it is the contention of the plaintiffs that the suit schedule property was restored to the joint family of the plaintiffs and defendant Nos.1 & 2 by setting aside the sale deed dated 08.09.1960. However the defendant No.5 has produced copy of the order in WP No.34038/2018 and WA.No.1054/2021, wherein the Hon'ble High Court of Karnataka set aside the order passed by the Assistant Commissioner and Deputy Commissioner. The plaintiffs have suppressed the said order passed by the Hon'ble High Court of Karnataka. In view of the order passed by the

Hon'ble High Court of Karnataka, the sale deeds of the defendants have been confirmed and there is no restoration of the suit schedule property to the family of the plaintiffs and defendant Nos.1 & 2. Under such circumstances, question of seeking partition in the suit schedule property does not arise. The plaintiffs have suppressed the material facts and approached the Court with unclean hand. Therefore the plaintiffs have failed to make out prima-facie of case, the balance of convenience is in favour of the defendants and the defendants will suffer irreparable injury if temporary injunction is granted in favour of the plaintiffs. Accordingly point No.1 is answered in the ***negative***, point Nos.2 & 3 are answered accordingly.

12. **Point No.4** :- In view of my findings on the above points, I proceed to pass the following order;

ORDER

**IA.No.1 is filed by the plaintiffs U/o 39 Rule
1 & 2 R/w. Sec.151 of CPC is hereby rejected.**

(Dictated to the stenographer, transcribed by her corrected and the pronounced by me in open court, on this the **17th day of March 2026**).

**(Krishna Raj K.,)
Prl. Senior Civil Judge & JMFC.,
Anekal.**