



**IN THE COURT OF I ADDL SENIOR CIVIL JUDGE & JMFC,
DEVANAHALLI.**

Present: Sri Lokesha M.G., B.A.L.,LL.B.,

O.S.No.828/2006

Dated this the 14th day of August, 2025.

PLAINTIFFS: Sri. Muniswamappa & Others

(By Advocate Sri. C.V.K.,)

V/s.

DEFENDANTS: Sri. B.M. Anjanappa & Others

(By Advocate Sri.P.T.N., H.F.,
V.V., V.A., A.H.V., P.P.H., T.K.S.,
K.S., P.T.H., D.S.P., & N.M.,)

ORDER ON IA.NO.I

I.A.No.1 is filed by the plaintiffs U/O XXXIX Rules 1 & 2 r/w. Section 151 of C.P.C., to restrain the defendants from alienating the suit properties till disposal of the suit.

2. It is stated in the accompanying affidavit that suit is filed for Partition. Suit properties are joint family



properties. Plaintiffs and defendants are joint family members. Eregowda and his sons were in possession and enjoyment of suit properties as co-parceners. Huliyappa was the Kartha of joint family and managing the joint family affairs. There was no division in the joint family, members were enjoying the suit properties and they were in joint possession of the same. On the basis of cultivation, pahani has been given in favour of each member. R.T.C. Extracts don't confirm any exclusive title and possession in respect of suit properties. Possession of one member in respect of Joint Hindu Family is equal to possession of other members of the family. The defendants are falsely claiming that they are the owners of suit properties and they are trying to alienate the suit properties to deprive the right of the plaintiffs. Some purchasers are visiting the suit properties to purchase the same. If the properties are alienated during the pendency of suit, it will cause hardship to the plaintiffs and it will lead to multiplicity of proceedings. To keep the suit properties intact, it is just and necessary to grant equitable order of Temporary Injunction. There is prima facie case in favour of plaintiffs. Defendants have no



exclusive right over the suit properties. Hence, it is prayed to allow the application.

3. Objection is filed stating that application is false. Suit properties are not available for partition. There was already partition among the predecessors of the plaintiffs and defendants. After the partition in the joint family of the plaintiffs and defendants, most of the suit properties were granted by way of occupancy rights individually in the names of predecessors of plaintiffs and defendants. The defendants are in exclusive possession and enjoyment of the properties which were granted to them. There are no specific materials on the record on behalf of the plaintiffs to support their version. R.T.C. doesn't have existence of standing trees. The properties are the self acquired properties of defendants. Second suit for partition is not maintainable. To protract the progress made in the properties, application is filed. No documents are produced to support the fact that there is threat of cutting and removing the standing trees. There is no prima facie case in favour of the plaintiffs. There was already partition in the year 1974. The plaintiffs are the divided family



members. The plaintiffs have knowledge of the partition and filed the false suit and hence they are not entitled to any relief. Palupatti was drawn in the year 1976. Shareholders were and are in possession of their share. Suit filed by the plaintiffs for partition in O.S.No.510/1996 has been dismissed for default in the year 2002. Miscellaneous petition filed by them is also withdrawn. Hence, it is prayed to dismiss the application.

4. Heard the learned counsel appearing for the plaintiffs and also the defendants. Perused the applications, affidavits, objections, pleadings and documents produced from the both sides.

5. Upon hearing arguments and on perusal of materials placed on record the following points that arise for my consideration are ;

1. Whether the plaintiffs have established prima-facie case to grant temporary Injunction ?

2. Whether the balance of convenience lies in favour of plaintiffs ?



3. Whether irreparable loss or hardship will be caused to the plaintiffs if Injunction as prayed in I.A.No.I is not granted?

4. What order ?

6. My findings to the above points are 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 order for
the following:

REASONS

7. **POINT NO.1:** The plaintiffs have filed suit for the relief of Partition and Permanent Injunction. There are almost 20 properties in the suit. It is stated about the relationship and suit properties are joint family properties. The plaintiffs and defendants are joint family members and they are in joint possession and enjoyment of suit properties. The properties were originally belonged to Eregowda. Thereafter, the plaintiffs and defendants have inherited the suit properties and they are having legitimate right over the suit properties. It is also stated that there is no division in the suit properties which are



ancestral properties. Plaintiffs and defendants are enjoying the suit properties. After death of Eregowda, Huliappa was managing the suit properties as Kartha. Defendants are trying to alienate the suit properties although they have no exclusive right over the suit property. It is also stated that defendants are claiming that they are the absolute owners of suit properties and they are trying to alienate the suit properties. It is also stated about the dismissal of suit in O.S.No.510/1996. It is also stated about the Compromise Talk during the pendency of the said suit. Along with the plaint, documents are produced to support the case. Sale Deeds executed in respect of suit properties are also produced. They show that there has been alienation in respect of portion of suit properties. If further alienation is made, it will lead to multiplicity of proceedings. The contention of the defendants that there was already partition in the joint family, it can be considered at the time of merits. At this stage, only prima facie case is to be looked into. On perusal of entire materials on the record, I am of the opinion that the plaintiffs have made out prima facie case. The documents prima facie show the version of the



plaintiffs. The contentions of the defendants are required to be proved at the time of trial. The defendants have also to prove that Panchayath/Oral Partition has been acted upon. At this time, it can't be stated that earlier partition has been acted upon. Hence, On perusal of entire materials on the record, I am of the opinion that there are grounds in the application. Objection is not sustainable. Hence, I answer Point No.1 in the "**AFFIRMATIVE**".

8. POINT NO.2:- The plaintiffs have made out prima-facie case in this case. To grant temporary Injunction in favour of the plaintiffs, they have to show that there is balance of convenience in their favour more than the defendants. On perusal of materials on the record, the balance of convenience lies in favour of the plaintiffs, when it is compared with the defendants case. Because, if the schedule property is alienated by the defendants, the plaintiffs will have no other way to get the relief. Therefore, I am of the opinion that the plaintiffs have also shown the balance of convenience to grant temporary Injunction. Accordingly, I answer the point no. 2 in the "**AFFIRMATIVE**".



9. POINT NO.3: The plaintiffs have also to establish that if the temporary Injunction is not granted, they will be put to greater hardship. The defendants have also to show that they will be put to greater hardship, if the temporary Injunction is granted in favour of the plaintiffs. But, there are materials to show that the greater hardship will be caused to the plaintiffs if application is rejected. Therefore, the contentions of the defendants are to be considered at the time of trial. Hence, I am of the opinion that the plaintiffs have also shown that they will be put to greater hardship, if the temporary Injunction is not granted. Accordingly, I answer the point No.3 in the **“AFFIRMATIVE”**.

10. POINT NO.4: As per the above discussion, I pass the following :

ORDER

I.A.No.I filed by the plaintiffs Under Order 39 Rule 1 and 2 read with Section 151 of C.P.C. is hereby allowed.

The defendants, their agents are hereby restrained from alienating the



suit schedule properties in any manner
till disposal of the suit.

(Directly dictated to the Stenographer, corrected and
then pronounced by me, in the Open Court, on this the
14th day of **August, 2025**).

Sd/-
(Loksha.M.G.)
I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.