



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

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

O.S.No.1536/2006

Dated this the 14th day of August, 2025.

PLAINTIFFS: Sri. Eranna & Others

(By Advocate Sri. K.N.S.)

V/s.

DEFENDANTS: Smt. Pillamma & Others

(By Advocate Sri. P.T.H., S.G.P.,
M.M., A.H.V., R.V., & P.V.R.,)

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. Nanjappa was the propositus of joint family. He along with other joint family members acquired



suit properties. Suit properties are joint family properties. The plaintiffs and defendants are in joint possession and enjoyment of suit properties. They are undivided family members. They are cultivating the land separately for the benefit of joint family and it shows the joint possession. Revenue records are in the names of joint family members individually and they don't confirm any title and separate possession in respect of suit properties and they don't show the partition between them. Joint family members can't claim exclusive right possession in respect of suit properties. Suit properties are valuable properties. Defendants are trying to negotiate to sell the suit properties. They can't sell the suit properties without consent of the plaintiffs. To keep the subject matter intact during the pendency of the suit, it is necessary to pass Temporary Injunction order to avoid multiplicity of proceedings. Plaintiffs have made out prima facie case. Hence, it is prayed to allow the application.

3. Objection is filed stating that application is not maintainable. Application is false. There are no grounds in the application. Suit properties are not available for



partition. The claim of the plaintiff is not tenable. 'B' schedule property is the self acquired property of Muniswamappa. Muniswamappa acquired the properties out of his own fund after severance of joint family. Plaintiffs can't have right over the same. Relationship is not in dispute. There was no joint family. There was no joint family fund in cultivating the suit properties. Nanjappa never purchased suit properties. Plaintiffs have not produced any documents to support their claim. They are not joint family members. On the basis of registered documents, defendants have acquired rights in respect of suit properties. They are not ancestral and joint family properties. The plaintiffs have no right over the suit properties. The plaintiffs are not entitled to the relief. Suit properties are not available for partition. There is no existence of joint family status. 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 seeking share in respect of suit properties and for the relief of Permanent Injunction. It is



stated that 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 Nanjappa. 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. 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 that suit properties were originally belonging to Nanjappa. Plaintiffs and defendants are undivided family members. Nanjappa possessed immovable properties and he was cultivating the same. It is stated about the relationship in the joint family. It is also stated about nature of suit properties and acquisition of properties. It is also stated that defendants have no individual right in respect of suit properties. In support of the version, documents are produced by the plaintiffs.



They prima facie show the case in favour of the plaintiffs. The defendants can't contend at this time that they are the absolute owners of suit properties and they can't say that plaintiffs are not having any right over the suit properties. It is the burden of the plaintiffs to prove their right and interest in respect of suit properties. It is also stated that valuable trees are standing in the suit properties and defendants are trying to cut and remove the said trees although they are having no right over the same. It is also stated that without knowledge of the plaintiffs, defendants are trying to alienate the suit properties and they are trying to cut the trees in the suit properties during the pendency of suit. On perusal of entire materials on the record, I am of the opinion that plaintiffs have made out prima facie case. It is also stated that revenue records are not documents of title and it is only for the purpose of assessment and collection of revenue from the holder of the property. Admittedly, this is a suit for partition. The plaintiffs have to prove that they are having right and share in respect of suit properties. Possession of 1 joint family member is possession of other joint family members. Hence, it can't be stated that



plaintiffs are not in possession of suit properties and they are not entitled to the share in the suit properties. The contentions of the defendants can be considered at the time of trial. At this time, 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 to grant restraint order in this case to avoid multiplicity of proceedings. 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/-
(Lokesha.M.G.)
I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.