



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

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

O.S.No.664/2012

Dated this the 25th day of September, 2025.

PLAINTIFFS: Sri. Manjunatha & Another

(By Advocate Sri. M.P.,)

V/s.

DEFENDANTS: Sri. Chikkamariyappa & Others

(D10 - By Advocate Sri. R.R.,)

ORDER ON IA.NO.X

I.A.No.10 is filed by the plaintiffs U/O XXXIX Rules 1 & 2 r/w. Section 151 of C.P.C., restraining the defendant No.10 from alienating the application schedule property till disposal of the suit.

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



properties of plaintiffs and defendant No.1 to 4. There is no partition between them. Defendant No.1 in collusion with defendant No.5 created Sale Deed in favour of defendant No.5 with intention to deprive the legitimate right of the plaintiffs in respect of item No.6 property. After filing of the suit, defendant No.5 has filed written statement and filed application to vacate interim order. Accordingly, it is allowed. By taking undue advantage of the same, defendant No.5 along with his children colluded together to deprive the rights of the plaintiffs created Sale Deed in favour of defendant No.8 on 18.03.2020. Thereafter, revenue records are transferred in the name of defendant No.8. Based on the same, defendant No.8 along with defendant No.9 again alienated item No.6 property in favour of defendant No.10 on 02.08.2024. Based on the document, defendant No.10 changed the revenue entries. Suit properties are ancestral properties. Plaintiffs are having share in the same. Defendant No.10 is making hectic effort to alienate item No.6 property in favour of 3rd parties. If it continues, it will lead to multiplicity of proceedings. Hence, interim order is necessary. Plaintiffs have made out prima facie case. If



application is allowed, no hardship will be caused to defendant No.10. Hence, it is prayed to allow the application.

3. Objection is filed stating that application is frivolous and false. Plaintiffs have not approached the Court with clean hands. Plaintiffs are not entitled to relief. Application is not maintainable. Already similar applications are filed and there is order against the plaintiffs. Temporary Injunction was granted on I.A.No.1. It was vacated. Similar application was filed by the plaintiffs against defendant No.8 and it was rejected on 01.04.2022 in respect of item No.6 property. Elaborate discussion is made in the order. Hence, both orders have become final and plaintiffs have not challenged the same. Similar application is not maintainable. There is no improvement or additional document produced by the plaintiffs to establish the right. To grab the property, application is filed. It is also stated that the Court can't take different view on the similar set up facts which is already decided. There is sufficient answer in the earlier order. Plaintiffs have failed to establish their entitlement. They are not



having any share in the item No.6 property. 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.X 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 the suit for Partition seeking share in respect of suit properties. It is also sought to declare Sale Deed dated 17.12.2008 is not binding on the plaintiffs share. It is stated that plaintiffs and defendant No.1 to 4 are the joint family members and they are in joint possession and enjoyment of suit properties. Originally suit properties were jointly possessed by the joint family members who are the sons of Late Pillappa who is the grandfather of the plaintiffs. The Katha was standing in the name of elder male member. Plaintiffs and defendant No.1 to 4 are jointly cultivating the suit properties. It also stated that defendant No.1 started to act against the interest of the joint family properties and against the plaintiffs interest. The suit properties are required for livelihood of the plaintiffs. It is also stated that plaintiffs are entitled to legitimate share. It is also stated that item No.6 was not sold for legal necessity. It is also stated that the purchasers are trying



to alienate the suit properties. Present application is filed by the plaintiffs stating that by taking undue advantage of the order vacating the earlier Temporary Injunction in respect of item No.6 property, there has been further alienation in respect of item No.6 property and hence it is necessary to pass restraint order. It is also stated that on 02.08.2024, defendant No.8 and 9 in collusion with each other sold the said property in favour of defendant No.10. It is also stated that defendant No.10 is making hectic effort to alienate the said property. If the interim order is not passed at the stage, definitely it will lead to multiplicity of proceedings. Because the documents are supporting the application averments. Palupatti, Mutation Registers, R.T.Cs and Sale Deeds are produced by the plaintiffs. Sale Deed for the year 2008 shows that there was alienation in favour of defendant No.5 in respect of application schedule property. Sale Deed for the year 2020 shows that defendant No.5 to 7 sold the said property in favour of defendant No.8. After the said date, Temporary Injunction Order was not granted in favour of the plaintiffs against the defendant restraining further alienation. As per the materials, Temporary Injunction



Order is vacated. By taking undue advantage of the same, there has been further alienation on 02.08.2024 by defendant No.8 and 9 in favour of defendant No.10. It is in respect of application schedule property. If the restraint order is not passed in this case at this stage, definitely there may be chance of further alienation by defendant No.10. Hence, application averments have to be taken into consideration. Objection is not sustainable. There are grounds in the application. On perusal of entire materials on the record, I am of the opinion that there is prima facie case in favour of the plaintiffs. The documents show the prima facie right in respect of suit properties. At this time, it can't be stated that plaintiffs don't have any right over the suit properties. In the objection, the advocate for defendant No.10 has stated that there is already speaking order on the same points and it is not open for the plaintiffs to file similar application and this Court can't take different view on the similar set up facts which is already decided. He can't contend so. Because during the pendency of the suit, the defendant No.10 purchased the application schedule property. On perusal of entire materials on the record, it is clear that by taking undue



advantage of the order vacating the earlier Temporary Injunction Order, the alienation has been done. Hence, it is to be restrained in the interest of justice and equity. There is change of circumstance in this case. Hence, restraint order can be passed in this case. There was no application filed seeking the same relief against the defendant No.10. Hence, this application is not barred by the principles of res-judicata. The advocate for defendant No.9 and 10 has produced the rulings reported in **1. Civil Appeal No.7941/2019 in between Securities & Exchange Board of India Vs. Ram Kishori Gupta & Another** and **2. Civil Appeal No.7037/2021 in between Beereddy Dasaratharami Reddy Vs. V. Manjunath & Another**. It is held that if the order has attained finality, again application can't be filed and if it is filed, it is barred by res-judicata. The said principle is not helpful to the defendants at this stage. Because, there was no relief sought against defendant No.10 in this case earlier. Hence, on perusal of entire materials on the record, I am of the opinion that there is prima facie case in favour of the plaintiffs. Accordingly, 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 defendant No.10. On perusal of materials on the record, the balance of convenience lies in favour of the plaintiffs, when it is compared with the defendant case. Because, if the schedule property is alienated by the defendant No.10, 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 defendant has also to show that he 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 defendant is 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.10 filed by the plaintiffs
Under Order 39 Rule 1 and 2 read with
Section 151 of C.P.C. is hereby allowed.

The defendant No.10, his agents are
hereby restrained from alienating the
application schedule property in any
manner till disposal of the suit.

(Dictated to the Stenographer, transcribed and computerized by her, transcript revised, corrected and pronounced by me, in the Open Court, dated this the **25th** day of **September, 2025**).

Sd/-

(Lokesha.M.G.)

**I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.**

