

KABR310007372025



IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE & J.M.F.C.,

AT DEVANAHALLI

PRESENT

SRI. PRAVEEN NAYAK, LL.M.,
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

Dated this day of 21st April, 2026

O.S.No.583/2025

BETWEEN:

Smt. Manjula : **Plaintiff**
W/o Yarappa
D/o Narayanappa

(Plt. - By Sri.S.H.P., Advocate)

AND:

Sri. Sunandamma @ Sundaramma : **Defendants**
W/o Late Narayanappa others

(Defts.1,4,5- By Sri.M.G.P., Advocate)

(Defts.2,3---

*_*_*_*_*

Provision under which the application is filed	under Order XXXIX Rule 4 of C.P.C
--	-----------------------------------



ii	Relief sought for	Vacate the exparte Temporary Injunction
iii	The date on which the application is filed	04-12-2025
iv	Number of the application	I.A.No.2
v	Date of filing objection	10-02-2026
vi	Date of Pronouncement of Order	21-04-2026

Sd/-
(PRAVEEN NAYAK)
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

ORDER ON I.A. No.II

The instant application has been filed by the counsel for defendants No.1, 4 and 5 under Order XXXIX Rule 4 of C.P.C seeking to vacate the exparte Temporary Injunction granted in favour of the plaintiff.

2. In the affidavit accompanying the application, the defendant No.4 has stated that the plaintiff has filed the suit for Partition and Separate Possession by colluding with defendants No.2 and 3. The plaintiff and the defendants were the joint family members. The plaintiff and her sisters have executed registered Release Deed by



receiving their share by way of money. The said Release Deed has been registered on 17-11-2006, wherein the plaintiff has clearly released her share in the joint family properties. The suit came to be filed after lapse of two decades. The same is not maintainable. Hence, prayed to allow the application.

3. The application is opposed by the counsel for the plaintiff by stating that the same is not maintainable. It is stated that the defendants No.1,4 and 5 have suppressed material facts before this court. They came up with unclean hands. The plaintiff is a co-sharer and has 1/5th undivided share in the suit properties. The defendants have deliberately concealed the facts and procured the alleged Release Deed dated 17-11-2006. On 16-11-2006, the defendants took plaintiff to the Sub-Registrar office under the pretext of executing sale deed for property bearing Sy.No.27 measuring 04 acres 02 guntas situated at Gollahalli Village. Subsequently, on 17-11-2006 the defendants No.1,4 and 5 summoned plaintiff again claiming certain corrections in the sale deed. The defendants got executed the sale deed by taking advantage of illiteracy of the plaintiff. The plaintiff has not been paid even a single rupee under the alleged Release Deed. Hence, prayed to reject the application with cost.



4. Heard both sides.

5. **The following points would arise for my consideration:**

1. Whether there is suppression of material facts by the plaintiff while obtaining *exparte* Temporary Injunction order by the hands of this court?
2. What order ?

6. **My answer to the above points are as follows:**

Point No.1 : **In the Affirmative**

Point No.2 : **As per final Order
for the following**

REASONS

7. **Point No.1:** This is a suit filed by the plaintiff against the defendants for the relief of Partition and Separate Possession. It is the clear case of the plaintiff that the suit properties are the joint family properties of plaintiff and the defendants. It is claimed that there is no partition in the joint family. It is clearly claimed in para No.6 of the plaint that after death of father of the plaintiff, the defendant No.1



transferred all immovable properties in her name as per MR No.175/2006-07. The defendants No.1, 4 and 5 appeared through their counsel and filed written statement and also filed the present application by contending that the plaintiff has already executed registered Release Deed dated 17-11-2006 in favour of them by relinquishing her share in the family properties by receiving monetary consideration. The copy of the Release Deed has been produced. The said document is a registered document in which it is clearly mentioned that the plaintiff has received an amount of Rs.5,00,000/- towards her share in the family properties. As per Section 3 of Transfer of property Act the registered document gives constructive notice to the public about the registration.

8. On careful perusal of the plaint averments and affidavit accompanying I.A.No.1, the plaintiff has not uttered even a single word regarding the said transaction. On perusal of the objection to the present application, it is clearly admitted by the plaintiff in para No.5 that such Release Deed has been executed on 17-11-2006. It is stated that on 16-11-2006, the defendants took the plaintiff to the office of Sub-Registrar on the pretext of executing sale deed in respect of Sy.No.27 measuring 04 acres 02 guntas and got executed the Release Deed. It is not the case of the plaintiff that she has never



signed the Release Deed. The objection statement gives an inference that the plaintiff had the knowledge of execution of Release Deed. Though, the plaintiff has contended that the Release Deed has been got executed by the defendants No.1, 4 and 5 on the pretext of executing registered sale deed by taking advantage of illiteracy of the plaintiff, there is no contention by the plaintiff that she had no knowledge of execution of Release Deed from the inception. Therefore, the plaintiff should have disclosed the said fact in the plaint. As observed supra, the plaintiff has failed to state even a single word regarding the alleged Release Deed in the plaint. There is also no prayer in respect of the said Release Deed. Under such circumstances, I am of the considered opinion that there is clear suppression of material facts by the plaintiff while obtaining exparte Temporary Injunction by the hands of this court. **Hence, I answer Point No.1 in the Affirmative.**

9. Point No.2 : In view of the above findings, this court proceed to pass the following:

ORDER

I.A. No.II filed under Order
XXXIX Rule 4 of C.P.C by defendants
No.1, 4 and 5 is allowed.



The exparte Temporary
Injunction order dated 02-05-2025,
granted by this court on I.A.No. 1
stands vacated.

No order as to cost.

(Dictated to the Stenographer, transcribed and computerized by her, same is corrected and then pronounced by me in the open court on this the 21st Day of April , 2026).

Sd/-
(PRAVEEN NAYAK)
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.