



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

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

**O.S.No.652/2025**

**Dated this the 14<sup>th</sup> day of January, 2026.**

**PLAINTIFFS:** Sri. Nagarajappa & Others

(By Advocate Sri. R.C.S.,)

**V/s.**

**DEFENDANTS:** Smt. Muniyamma & Others

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

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<b>i.</b>	Provision under which the application is filed	39 Rule 1 & 2
<b>ii.</b>	Relief sought for	Temporary Injunction
<b>iii.</b>	The date on which the application is filed	20.05.2025
<b>iv.</b>	Number of the application	2
<b>v.</b>	The date on which the objections are filed by different opponents	05.11.2025
<b>vi.</b>	The date on which the orders were passed on the said application	14.01.2026



**ORDER ON IA.NO.II**

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

**2.** It is stated in the accompanying affidavit that plaintiffs have filed the suit for the relief of partition in respect of suit properties. Plaintiffs and defendants are the owners in possession and enjoyment of suit properties. They are the joint family members. They are in joint possession and enjoyment of suit properties. Doddamunishamappas was the propositus and he got 2 sons namely Thotlappa and Kenchappa. The plaintiffs and defendants are the joint family members of Thotlappa and Kenchappa. Thotlappa and Kenchappa got properties through ancestral and joint family. After death of Kenchappa, plaintiffs and defendants are residing separately without partition among the family. Subsequently, the plaintiffs applied the records and came to know that mutation was changed and properties are divided as per the partition dated 11.03.2025. It is without knowledge and consent of the plaintiffs. Defendant No.1



got 5 Acres 18 Guntas and grandfather of plaintiffs namely Thotlappa got 4 Acres 12 Guntas. By taking advantage of the situation, defendant No.1 got divided the joint family properties. The said Partition Deed is created and concocted for the purpose of benefit of the defendants. Hence, it is liable to be canceled. It is not binding on the legitimate share of the plaintiffs. The Partition Deed was obtained on the day of grandmother of plaintiffs namely Anjinamma died. When the fact came to know to the plaintiffs and they have approached the defendants. They started assaulting the plaintiffs and threatened to their life. Thereafter, criminal cases are filed. On the basis of Partition Deed, katha and mutation, defendants are trying to alienate the suit properties in favour of third parties. Some of the third parties came near the spot and showed their intention to purchase the suit properties. The defendants are ready to sell the suit properties in favour of third parties to deprive the rights of the plaintiffs. If the application is not allowed, greater hardship would be caused. Hence, it is prayed to allow the application.



**3.** Objection is filed by the defendants stating that application is not maintainable. Suit is not maintainable. It is true that Thotlappa and Kenchappa are the brothers and they were the members of joint family. Thotlappa was the elder son and member of the joint family and he was managing the joint family affairs. After death of Doddamunishamappa, the joint family fund and joint family properties were managed and maintained by Thotlappa. Joint family also acquired other properties in the name of Thotlappa. The plaintiffs can't maintain the suit. Because, their grandfather Thotlappa is alive. He had entered into Partition Deed with his brother. Therefore, suit is not maintainable. Thotlappa is not even made as party to the suit. When Thotlappa has no objection for the said partition, plaintiffs can't claim that partition is not binding on Thotlappa. The plaintiffs have not whispered as to the details of the properties and how the properties were acquired by joint family. They have no knowledge about the true facts. Thotlappa and Kenchappa had no separate income except joint family properties and fund. They were enjoying the said properties as members of joint family. The properties were cultivated together. Hence,



Thotlappa suggested for partition of properties. Accordingly, properties were divided by metes and bounds after mutual decision and discussion. Thotlappa accepted the partition and he has not challenged the same. Suit is bad for non-joinder of necessary parties. Partition Deed was not suddenly executed and registered. After mutual negotiation between Thotlappa and defendants, it was taken place. The said Thotlappa is very active and well aware of the world affairs to manage the transactions. Hence, application averments and plaint averments are false. Thotlappa wanted to settle the properties separately by partition of properties. To harass the defendants, suit is filed. Plaintiffs can't seek any declaration under Law since they have no right over the 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.II 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. They have sought declaration to declare Partition Deed between Thotlappa and defendants No.1 dated 11.03.2025 is illegal, improper and not binding on the plaintiffs share and also for the relief of Permanent Injunction. It is stated in the plaint about the joint family members and joint family properties. It is also stated that plaintiffs and defendants are co-parceners and they are in joint possession and enjoyment of suit properties. It is also stated about the propositus namely Doddamunishamappa and his sons namely Thotlappa and Kenchappa and their family members. To support the relationship, Family Tree is produced. Record of Rights are also produced. They show that suit properties are ancestral properties. It is not disputed by both parties. It is the contention of the plaintiffs that Partition Deed was not properly executed equally. Defendants have taken more share than the ancestor of plaintiffs namely Thotlappa. Partition Deed dated 11.03.2025 is also produced. The joint family properties are partitioned by metes and bounds. The plaintiffs have contended in para No.7 of the plaint that defendants have used the situation and got the Partition Deed without knowledge and consent



of the plaintiffs. It is also stated that even without knowledge of the Thotlappa, said Partition Deed was effected on 11.03.2025. The first wife of Thotlappa namely Anjinamma died on the same day on 11.03.2025 and due to death of his wife, he lost consciousness and on that date, defendants took Thotlappa for treatment and fraudulently registered the partition. Hence, said document is created and concocted for the purpose of benefit to them and to cause loss to the plaintiffs. It is also argued by the advocate for plaintiffs that there is no equal partition between the plaintiffs and defendants as per the Partition Deed. The said averments are to be proved by the plaintiffs. It requires trial. Opportunity has to be given to them. But, present application is filed to restrain the defendants from alienating the suit properties till disposal of the suit. During the pendency of suit, application is filed to implead purchaser of item No.4 property in this case. Documents in the name of purchaser are also produced. It is Sale Deed dated 18.06.2025. Suit came to be filed on 20.05.2025. The said Sale Deed has been executed during the pendency of suit. Hence, it is necessary to restrain the further alienations in respect of



suit properties by the defendants. Otherwise, it will cause hardship to the plaintiffs in getting the relief. It also will lead to multiplicity of proceedings. Hence, 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 at this stage. There are grounds in the application. Objection is not sustainable. 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 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.II 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.

(Dictated to the Stenographer, transcribed and computerized  
by her, transcript revised, corrected and pronounced by me, in the  
Open Court, dated this the **14<sup>th</sup>** day of **January, 2026**).

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