



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,**

**DODDABALLAPURA.**

**Dated this the 1<sup>st</sup> day of March 2025.**

**PRESENT: SMT. SHILPA.H.A.**

**B.A.L., LL.B.,**

**Senior Civil Judge & J.M.F.C.**

**Doddaballapura.**

**O.S.No.211/2025**

**Plaintiffs:**           **1. SMT. MAMATHA,**  
W/o.Nagesha,  
D/o.Bachegowda,  
Aged about 42 years,  
R/at, Kothanur Village,  
Kasaba Hobli,  
Siddaiagatta Taluk,  
And another.

**(By Sri.S.R.S.P Advocate for plaintiffs)**

**-Vs-**

**Defendants:**           **1. SRI.BACHEGOWDA,**  
S/o.Late Munishamappa,  
Aged about 68 years,  
R/at, Mukkenahalli Village,



Tubagere Hobli,  
Doddaballapura Taluk,  
And 14 others.

**(By defendant No.1 to 12 placed exparte and  
Sri.A.S.N Advocate for defendant No.13 to 15)**

\* \* \* \* \*

**ORDER ON I.A.No.I & II**

Plaintiffs have filed this I.A.No.1 under order 39 Rule 1 and 2 R/w Sec.151 of CPC., seeking an order of temporary injunction restraining the defendant No.2, 3 & 13 to 15 from alienating, encumbering or creating any charge over the suit schedule properties till the disposal of the suit.

Plaintiffs have filed this I.A.No.2 under order 39 Rule 1 and 2 R/w Sec.151 of CPC., seeking an order of temporary injunction restraining the defendant No.13 to 15, their agents, servants, henchmen or anybody acting on their behalf from cutting and removing the standing Neelgiri Trees in the suit schedule properties till the disposal of the suit.



## 2. Description of suit schedule property

| <b>Sl.No.</b> | <b>Sy.No.</b> | <b>Acres-guntas</b>                                       | <b>Situated at</b>  |
|---------------|---------------|---|---|
| 1             | 73/3          | 3 acres 0-02 guntas                                       | Chowgondahalli Village,<br>Tubagere Hobli,<br>Doddaballapura Taluk.     |
| 2.            | 74/1          | 1 acres 0-03 guntas                                       | Chowgondahalli Village,<br>Tubagere Hobli,<br>Doddaballapura Taluk.     |
| 3.            | 74/5          | 0-08 guntas   | Chowgondahalli Village,<br>Tubagere Hobli,<br>Doddaballapura Taluk.     |
| 4.            | 75/10         | 0-04 guntas   | Chowgondahalli Village,<br>Tubagere Hobli,<br>Doddaballapura Taluk.     |
| 5.            | 69/2          | 0-04 guntas   | Chowgondahalli Village,<br>Tubagere Hobli,<br>Doddaballapura Taluk.     |
| 6.            | 67/1          | 2 acres 0-16 guntas<br>out of which 1 acre<br>0-20 guntas | Beetagere Agrahara<br>Village, Tubagere Hobli,<br>Doddaballapura Taluk. |
| 7.            | 69            | 2 acres 0-04 guntas<br>out of 1 acres 0-20<br>guntas      | Beetagere Agrahara<br>Village, Tubagere Hobli,<br>Doddaballapura Taluk. |
| 8.            | 67/1          | 2 acres 0-16 guntas<br>out of 0-36 guntas                 | Beetagere Agrahara<br>Village, Tubagere Hobli,<br>Doddaballapura Taluk. |



|    |    |   |   |
|----|----|---|---|
| 9. | 69 | 2 acres 0-04 guntas<br>out of 0-24 guntas | Beetagere Agrahara<br>Village, Tubagere Hobli,<br>Doddaballapura Taluk. |
|----|----|---|---|

**3. FACTS IN BRIEF:**

Plaintiff No.2 has sworn to an affidavit in support of these I.A.No.1 & 2 and contended that they have filed this suit for partition and separate possession. Suit schedule properties are their ancestral and joint family properties. All the suit schedule properties were acquired by their grand father Sri.Munishamappa through his ancestors and khata had been changed in the name of his grand father by way of Pavati thakhte vide IHC No.142/1995-96. Said Munishamappa in collusion with defendant No.1 to 3 to deprive plaintiffs legitimate share has created and executed the Registered Gift deed in favour of defendant No.2 & 3 in respect of item No.1 to 5 of the suit schedule property in the year 2013 without the knowledge and consent of the plaintiffs. Based on the said document the defendant No.2 & 3 have obtained khata in respect of item No.1 to 5 in their names. On the



basis of said khata the defendant No.2 & 3 are trying to alienate the suit schedule property. Plaintiffs grand father Munishamappa in collusion with defendant No.4 to 12 to deprive the legitimate share of the plaintiffs has created 3 registered Gift deed in favour of defendant No.4, 7 & 10 in respect of item No.6 to 9 of the suit schedule properties during the year 2006 without the knowledge of plaintiffs. Thereafter, defendant No.4, 7 & 10 have changed khata of said properties in their names and have sold said properties in favour of defendant No.13 to 15 and now khata of item No.6 to 9 stands in the names of purchasers vide MR.No.1/2006-07 and MR.No.2/2006-07. By taking undue advantage of khata standing in the name of defendant No.13 to 15 they are also trying to alienate item No.6 to 9 properties. Apart from that defendant No.6 to 9 are also trying to cut and remove the Neelgiri trees grown in item No.6 to 9 to deprive plaintiffs right, share, title, interest and possession over the said properties. If these I.A's are allowed no harm or prejudice would be caused to the defendants. At



the same time if an order of Temporary Injunction is not granted plaintiffs will be put to untold hardship and irreparable injury. Hence, prays to allow these I.A's in the interest of justice and equity.

4. Defendant No.13 to 15 have filed written statement and adopted the same as objections to these I.A's and denied entire I.A and averments as false and contended that there is no existence of joint family between plaintiffs and defendant No.1 to 12. Munishamappa was the absolute owner in possession of Sy.No.69 bearing 2 acre 4 guntas out of which he had gifted an extent of 16 guntas in favour of defendant No.10 through Registered sale deed dated:17.09.2005 and remaining extent of 1 acre 20 guntas in favour of defendant No.7 under a registered Gift deed dated:19.09.2005. Munishamappa has also gifted an extent of 2 acre 16 guntas in favour of defendant No.4 in Sy.No.67/1 through Registered Gift deed dated:17.09.2005. Based on the said Gift deeds, defendant No.4, 7 & 10 have got changed Revenue records in their names. Subsequently, defendant No.7 to 12 have sold



2 acre 16 guntas in favour of defendant No.14 and 15 under a Registered sale deed dated:12.05.2006 and delivered possession. The defendant No.4 to 6 & 10 to 12 have sold 1 acre 20 guntas in Sy.No.67/1 in favour of defendant No.13 under a Registered sale deed dated:12.05.2006. The defendant No.1 to 3 have no manner of right, title or interest over item No.7 & 9 which belongs to defendant No.14 and 15 but they have interfered with the peaceful possession and enjoyment of defendant No.14 & 15 and hence they have filed suit in O.S.No.39/2015 and obtained an ex parte T.I order from cutting the Eucalyptus Trees. Similarly defendant No.13 has also filed suit for permanent injunction against defendant No.1 to 3 in O.S.No.45/2025 and obtained an ex parte Temporary Injunction in respect of item No,6 & 8. Defendant No.1 had also filed suit for partition against his father Munishamappa and he has also challenged aforesaid Gift deeds and sale deeds and the said suit came to be dismissed. Defendant No.1 had filed R.A.No.52/2011 and the same also came to be dismissed and



the said dispute has attained finality. After obtaining exparte Temporary Injunction in this suit, the plaintiffs have come near the item No.6 to 9 and making hectic efforts to cut down the standing Eucalyptus Tree in collusion with defendant No.1 to 12. Hence, prays to dismiss both the I.A's in the interest of justice and equity.

5. Heard the arguments and perused the materials placed before me.

**6. My points are arises for my consideration are:**

1. Whether the plaintiffs have made out prima-facie case to grant an order of temporary injunction in her favour?
2. Whether balance of convenience lies in favour of the plaintiffs?
3. Whether the irreparable loss or hardship will be caused to the plaintiffs, if injunction is not granted?
4. What order?



**7. My findings to the above points are as follows;**

- POINT No.1 : In the partly Affirmative**
- POINT No.2 : In the Affirmative**
- POINT No.3 : In the Affirmative**
- POINT No.4 : As per final order  
for the following;**

**REASONS**

**8. POINT NO.1:** Plaintiffs have filed this suit for the relief of partition and separate possession seeking their 1/5<sup>th</sup> share out of their father's 1/4<sup>th</sup> share, declare the Registered Gift deed dated:23.09.2013, 19.09.2005 and Registered sale deeds dated:20.05.2006 are not binding on plaintiffs. It is the case of the plaintiffs that suit schedule property were inherited by their grand father Munishamappa and thus it is their ancestral and joint family properties. On perusal of the G-Tree it goes to show that propositus Munishamappa has 4 childrens By name Bachegowda, SubBlakshamma Anasuyamma and Bhagyamma who are defendant No.1, 4, 7 & 10 herein. Plaintiffs and defendant No.,3



are the children of said Bachegowda. As per MR 142/95-96 khata of item No.6 to 9 came to be mutated in the name of Munishamappa through inheritance after the death of his father Munibachappa. Plaintiffs have sought an order of Temporary Injunction restraining the defendant No.2, 3 & 13 to 15 from alienating the suit schedule properties. Khata of item No.1 to 5 stands in the name of defendant No.2 & 3 but they have not yet appeared before the court and filed objection. Summons to defendant No.2 & 3 is not yet served. Since, khata of item No.1 to 5 stands in the name of defendant No.2 & 3 and without giving an opportunity for them to appear and file objections, the said I.A cannot be partly allowed with respect to item No.6 to 9 & pass further orders on item No.1 to 5. After issuing exparte Temporary Injunction, this court has fixed the date of appearance on 10.03.2025, in the meanwhile defendant No.13 to 15 have advanced the matter, filed written statement and addressed arguments. Since plaintiff has included all the 9 properties in I.A.No.1 and also sought an



order of Temporary Injunction against defendant No.2 & 3 in respect of item No.1 to 5, without appearance of defendant No.2 & 3 the said exparte Temporary Injunction order cannot be partially vacated in respect of item No.6 to 9 only. Hence, orders on I.A.No.1 is deferred till appearance of defendant No.2 & 3 and filing their objections.

9. Plaintiffs have filed I.A.No.2 restraining only defendant No.13 to 15 from cutting and removing the standing Eucalyptus Trees only in item No.6 to 9. The purpose of advancing the case by defendant No.13 to 15 is that they have threat that plaintiffs in collusion with defendant No.1 to 12 are trying to cut and remove the Eucalyptus Trees by taking undue advantage of exparte Temporary Injunction order and hence prays to vacate the same. This court has restrained defendant No.13 to 15 from cutting the Eucalyptus grown in item No.6 to 9 till the next date of hearing. In the mean time defendant No.13 to 15 have advanced the matter and furnished several documents which speaks that propositus Munishamappa had executed Gift deeds in respect of



item No.6 to 9 and thereafter the donees have changed khata in their names and alienated the same in favour of defendant No.13 to 15 under a Registered sale deeds. These Gift deeds and sale deeds were also challenged by defendant No.1 in O.S.No.81/2006 and RA.No.152/2011 and both the cases are dismissed. The defendant No.13 to 15 have also filed suit against other defendants and obtained an exparte Temporary Injunction restraining their from cutting Eucalyptus Trees. In support of these documents they have also produced photos which prima-facie goes to show that the standing Eucalyptus Trees being recently cut and there was quarrel between the parties in the spot. The threat of defendant No.13 to 15 is that by taking undue advantage of exparte Temporary Injunction order the plaintiffs along with defendant No.1 to 12 have already removed the Eucalyptus Trees and hence prays to vacate the same. If the said exparte orders granted on I.A.No.2 is vacated then the remaining defendants may continue their act. Since this is a suit for partition and



separate possession and the photos produced by the defendant No.13 to 15 prima-facie goes to show that the standing Eucalyptus Trees are cut, it is just and proper to pass an order restraining both the parties to maintain status-quo till the disposal of the suit. Hence, I answer **Point No.1 in the partly Affirmative.**

**10. POINT No.2 & 3:** Since both the points are inter-connected in order to avoid repetition of facts they are taken together for discussion. The plaintiff has made out prima-facie case in her favour, if status-quo is granted the balance of convenience lies in her favour. At the same time if the status-quo order is rejected plaintiffs will be put to irreparable loss and injury. Accordingly, **I answer Point No.2 and 3 in the Affirmative.**

**11. POINT No.4:** For the aforesaid reasons, I proceed to pass the following;



**:ORDER:**

**I.A.No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 of CPC is hereby partly allowed.**

**Both parties are hereby directed to maintain Status-quo over the suit item No.6 to 9 till the disposal of the suit.**

**The orders on I.A.No.1 is deferred till appearance of defendant No.1 to 12.**

**Ad-interim order granted on I.A.No.1 is extended till next date.**

**No order as to cost.**

(Dictated to the Stenographer transcribed, typed and printout taken by him, corrected by me and then pronounced in the open court on this the 1<sup>st</sup> day of March 2025)

**(SHILPA.H.A)**  
Senior Civil Judge & JMFC  
Doddaballapura.