



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC, AT**  
**DODDABALLAPURA.**

**Dated this the 11<sup>th</sup> day of September 2025.**

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

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

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

**Doddaballapura.**

**O.S.No.325/2020**

**Plaintiff/s:**

**1. SMT. SHARADAMMA**

W/o Late Munichannaiah,  
Aged about 42 years,  
R/at No.251/A.  
12<sup>th</sup> Cross Road,  
1<sup>st</sup> Main Road,  
Agrahara Layout,  
Bangalore North Taluk.

**(By Sri. V.C.B., Advocate for plaintiff)**

**-Vs-**

**Defendant/s:**

**1. SRI. MUNICHANNAIAH**

D/o Late Channaiah,  
Aged about 70 years,  
R/at Narasaianaagrahara Village,  
Doddabelavangala Hobli,  
Doddaballapura Taluk,



Bangalore Rural District,  
and 5 others.

**(For defendant No.1 to 3 ex-parte  
Sri. L.G., Advocate for defendant No.4  
Sri.T.N.B., Adv for defendant No.5)**

\* \* \* \* \*

**ORDERS ON I.A.No.VII**

Defendant No.1 has filed this I.A.No.VII under Order 39 Rule 1 and 2 R/w Sec.151 of CPC., seeking an order of temporary injunction restraining the defendant No.5, his agents, assignees or anybody claiming through them from alienating the suit schedule properties in favour of 3<sup>rd</sup> parties till the disposal of the suit.

**2. Description of suit schedule property**

<b>Sl.No.</b>	<b>Sy.No.</b>	<b>Acres-guntas and property bounded on</b>	<b>Situated at</b>
01.	17/1	Measuring about 2.06 and 17/2, measuring 1-32 guntas	Kalludevanahalli Village, Doddabelavangala Hobli, Doddaballapura, Bengaluru Rural District.



### **3. FACTS IN BRIEF:**

This is a suit filed by the plaintiff for the relief of partition and separate possession seeking 1/4th share in all the suit schedule property with cost.

4. The defendant No.4 has sworn to an affidavit in support of this I.A and contended that plaintiff has filed this suit for partition and separate possession against the defendants. Plaintiff and defendants are in joint possession and enjoyment over the suit schedule property. They are member of Hindu undivided joint family. The suit schedule property is the ancestral and joint family property. There is no partition among them till today. Suit schedule property was purchased by Smt. Lakkamma under Registered sale deed dated:19.10.1961. Later said Lakkamma along with Munichannaiah and sons have sold the suit schedule property in favour of defendant No.5 under Registered sale deed



dated:17.11.1987 and hence the same is not valid transaction, plaintiff and defendant No.1 to 4 still have rights over the suit schedule property. The defendant No.5 has created revenue documents and gifted the same in favour of his grand son under Registered gift deed dated:28.01.2021 and trying to further alienate the same. Defendant No.4 has made out prima-facie case. If the I.A is allowed no harm or prejudice would be caused to the defendants. At the same time, if an order of Temporary Injunction is not granted plaintiff will be put to untold hardship and irreparable injury. Hence, prays to allow the I.A.No.I in the interest of justice and equity.

5. In spite of giving sufficient opportunity defendant No.5 has not filed objection to this I.A.

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



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

1. Whether the defendant No.4 has made out prima-facie case to grant temporary injunction in her favour?
2. Whether balance of convenience lies in favour of the defendant No.4?
3. Whether the irreparable loss or hardship will be caused to the defendant No.4, if injunction is not granted?
4. What order?

**8. My findings to the above points are as follows:**

- |                           |          |                                              |
|---------------------------|----------|----------------------------------------------|
| <b>POINT No.1</b>         | <b>:</b> | <b>In the Negative</b>                       |
| <b>POINT No.2 &amp; 3</b> | <b>:</b> | <b>Does not arise for consideration</b>      |
| <b>POINT No.4</b>         | <b>:</b> | <b>As per final order for the following;</b> |

**REASONS**

**9. POINT NO.1:** Plaintiff has filed this suit for partition and separate possession contending that suit schedule property is her



ancestral and joint family property of herself and defendant No.1 to 4 and they are members of Hindu undivided joint family. In support of the contentions of the defendant No.4, he has produced Registered sale deed dated:06.05.2022 which goes to show that one Manamohan has sold suit schedule property in favour of Rangaiah and three others.

10. It is the case of the plaintiff that suit schedule property was purchased by her mother on Registered sale deed dated:19.10.1967 and the same was alienated in favour of defendant No.5 under Registered sale deed dated:1987. But, since 1987 neither plaintiff nor defendant No.1 to 4 have challenged the said sale for a period of 38 years. Even in this case also she has not challenged the said sale deed. The plaintiff has already led her evidence and got marked some documents. On its



perusal it goes to show that suit schedule property was alienated by plaintiff's mother and other family members in favour of Lakshamma in the year 1987 itself and accordingly katha has been transferred in her name and subsequently through inheritance the katha was mutated in the name of defendant No.5 through IHC 60/1993-94. All these revenue entries and sale deed were remained unchallenged for a period of 38 years by plaintiff and defendants. Moreover, plaintiff is a daughter of Channaiah and Lakshamma and she became co-porcener in view of the amendment to Sec.6 of Hindu succession Act in the year 2005 and prior to that she had no right to claim equal share in the Ancestral and Joint Family properties. When plaintiff and defendant No.4 have specifically contended that suit schedule property is their ancestral and Joint family properties, they ought to have challenged alleged alienation with a period of limitation and the



present suit filed after 38 years of alienation that too without challenging the alienation prima facie goes to show that suit is hopelessly barred by limitation and under such circumstances there is no question of granting an order of Temporary Injunction.

In the case of **Smt. Narasamma Vs Smt. Akkamma reported in AIR ONLINE 2019 KAR 1778 dated:22.07.2019** it was held that:-

**“It is not desirable to record decision on merits when deciding prima-facie case. The prima facie case really means that there is a case which required trial and that the case is not the one based on erroneous and vexatious grounds. When deciding the question prima-facie case, it is generally not desirable and open for the court to record a decision on the**



merits of the pleas taken in the suit and those findings will not have any binding effect on the parties at the time of the final hearing of the case and it shall always be open to raise respective contentions and it is for the court to decide according to law at that stage. The object of interim injunction is to protect plaintiff against injury by violation of his right for which he could be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial.”

11. Since plaintiff has not made out prima facie case, I answer

**Point No.1 in the Negative.**



**12. POINTS No.2 & 3:** Since these two points are inter-connected in order to avoid repetition of facts they are taken up together for discussion. Since, plaintiffs have failed to make out prima-facie the question of balance of convenience and irreparable loss and injury doesn't arise for consideration. Accordingly, **I answer Point No.2 & 3 does not arise for consideration.**

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

**:ORDER:**

**I.A.No.VII filed by the defendant  
No.4 under Order XXXIX Rule 1 and 2  
R/w Sec.151 of CPC., is hereby  
dismissed.**

**No order as to cost.**

(Dictated to the Stenographer transcribed, typed and printout taken by her, corrected by me and then pronounced in the open court on this the



11<sup>th</sup> day of September 2025)

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