

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

**PRESENT:**

Sri. Arun Kumar.G. B.A., LL.B.  
Senior Civil Judge & JMFC,  
Hosakote.

**Dated this the 23<sup>th</sup> day of September - 2025**

**O.S.No.224/2024**

**Plaintiff/s** : Smt.Manjula & Ors.

**- V/s -**

**Defendant/s** : Smt.Nagamma & Ors.

i. Provision under which the applications are filed.	U/o 39 Rule 1 and 2 R/w Section 151 of CPC and Section 151 of CPC
ii. Relief sought for	Temporary Injunction
iii. The date in which the application is filed	18-3-2024
iv. Number of the application	IA No.1 and 2
v. The date on which the objections are filed by different opponents	4-12-2024
vi. The date on which the orders were passed on the said application.	23-09-2025

**Orders on I.A.No.1 and 2**

The plaintiffs have filed I.A.No.1 under Section 151 of CPC to stay the execution and operation of the collusive compromise

decree dated 10-11-2023 passed in O.S.No.982/2023 pending disposal of the suit .

2. Further, they have also filed I.A.No.2 under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking an order of temporary injunction restraining the defendants from alienating the suit schedule properties in favour of third parties pending disposal of the suit.

3. In the annexed affidavits it is stated that, the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants which are fallen to the share of legal heirs of Appayanna i.e., in the name of Chikkathayappa S/o Appayanna under partition deed dated 15-11-1994. From the date of said partition, the family members of Chikkathayappa are continued to be in peaceful possession and enjoyment of the said properties without interference from anybody. When such being the case, after the death of his brother Chikkathayappa, the defendants by playing fraud obtained the compromise decree in O.S.No.982/2023 by including the property belongs to the plaintiffs. Now, by virtue of the compromise decree they are

making hectic efforts to alienate the said properties in favour of third parties. Hence, prays to allow the applications.

4. The defendants filed written statement and also filed memo to treat the same objections to the above application by denying the statement made by the plaintiffs and further denied the title of the plaintiff over the suit schedule properties and further taken a contention that by virtue of partition deed dated 15-11-1994 the suit schedule properties were not allotted in favour of father of the plaintiffs by name Chikkathayappa. Further, the said partition deed was over written by the plaintiffs in order to get the wrongful gain. The plaintiffs by suppressing the material facts have filed the above suit with malafide intention to harass the defendants and there is no cause of action to file the above suit. Hence, prays to reject the application.

5. Based upon the above contentions of the parties, following points arise for consideration of this court:

1. Whether the plaintiffs have made out prima facie case in their favour?

2. Whether the balance of convenience lies in their favour?
3. If temporary injunction is not granted who will suffer great hardship and injustice?
4. What order?

6. Heard and perused. On due perusal of the records, the court findings on the above points are as under:

Point No.1 to 3 : In the Negative,  
Point No.4 : As per the final order  
for the following;

### **REASONS**

7. **Point No. 1 to 3:-** These points are inter-linked with each other. Therefore, in order to avoid the repetition of facts and circumstances, they are taken together at one stretch for common discussion.

The plaintiffs have filed the above suit against the defendants for the relief of declaration and permanent injunction with respect to suit schedule properties and also the compromise decree passed in O.S.No.982/2023 dated 10-11-2023 is not binding on their rights.

8. The defendants through their written statement have denied the title of the plaintiff over the suit schedule properties and further taken a contention that by virtue of partition deed dated 15-11-1994 the suit schedule properties were not allotted in favour of father of the plaintiffs by name Chikkathayappa. Further, the said partition deed was over written by the plaintiffs in order to get the wrongful gain.

9. The plaintiffs in support of their case have produced the genealogical tree, original partition deed dated 15-11-1994, partition chit, copy of order sheet, plaint, I.A. and compromise petition of O.S.No.982/2023, another copy of plaint in O.S.No.947/2023 and RTC extracts.

10. The defendants in support of their case have also produced the certified copy of partition deed, copy of orders passed by the Thasildar and Assistant Commissioner, genealogical tree, mutation register extracts and other revenue records.

11. On perusal of the original partition deed produced by the plaintiff it clearly goes to show that the property bearing Sy.No.20/3, 20/4, 31/2 and other properties were allotted in favour of father of the plaintiffs by name Chikkathayappa as schedule A property. But, in item No.2 of the said partition deed, property bearing Sy.No.20/4 was over written. Further, copy of the same was also submitted by the defendants through their written statement.

12. In support of their case they have also produced the copy of said partition deed obtained under RTI Act wherein the item No.2 property of the said partition deed schedule A was mentioned as Sy.No.28/1 an extent of 1 acre 18 ½ guntas. Which shows that under the said partition deed, the property bearing Sy.No.28/1 was allotted in favour of father of the plaintiff by name Chikkathayappa.

13. Furthermore, the plaintiffs have not produced any other material documents to prove that by virtue of the said partition deed, katha was mutated in their names. Further, the

defendants have also produced mutation register extract bearing No.33/1951-52 which shows that Sy.No.20/4 an extent of 2 acres 33 guntas was acquired by one Kurihatti Muniyappa.

14. On perusal of available records it clearly goes to show that under partition deed dated 15-11-1994 the property bearing Sy.No.20/3, 28/1, 31/2 and other properties were allotted in favour of Chikkathayappa but, the Sy.No.28/1 was over written in the said original document as Sy.No.20/4.

15. But, here in this case the plaintiffs have not given any explanation regarding over writing on the said partition deed. Furthermore, they have also not produced any material documents to prove that at this stage they are in possession over the suit property. Hence, plaintiffs have not made out any prima facie case and the balance of convenience is also not lies on their favour. Further, if the compromise decree passed in O.S.No.982/2023 is stayed, more hardship would be caused to the defendants rather than the plaintiffs. Hence, for the above reasons, I answered point No. 1 to 3 in the “**Negative**”.

16. **Point No.4** :- In view of the aforesaid findings on point No.1 to 3, I proceed to pass the following:

**ORDER**

I.A.No.1 filed by the plaintiffs under Section 151 of CPC is hereby rejected.

I.A.No.2 filed by the plaintiffs under Order 39 Rule 1 and 2 of CPC is hereby rejected.

No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced in the open court on this the 23<sup>rd</sup> day of September 2025.)

(Arun Kumar.G)  
Senior Civil Judge & JMFC,  
Hosakote.

