

**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 6th day of September – 2025

O.S.No.380/2023

Plaintiff/s : Sri.D.A.Murthy & Anr.

- V/s -

Defendant/s : Smt.Munivenkatamma & Anr.

i. Provision under which the application is filed.	U/o 39 Rule 1 and 2 R/w Section 151 of CPC
ii. Relief sought for	Temporary injunction
iii. The date in which the application is filed	9-3-2023
iv. Number of the application	IA No.1
v. The date on which the objections are filed by different opponents	22-1-2025
vi. The date on which the orders were passed on the said application.	06-09-2025

Orders on I.A.No.1

The plaintiffs have filed I.A.No.1 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 or creating any charge over the same pending disposal of the suit.

2. In the annexed affidavit it is stated that, the plaintiffs and defendants are the Hindu undivided joint family members and the suit schedule properties are the ancestral and joint family properties and they are in joint possession and enjoyment over the same. In the first week of December 2022 the plaintiffs demanded to effect partition of their legitimate share in the suit schedule properties, but the defendants denied the same. Further, the defendants taking advantage of the revenue records standing in their names are trying to alienate the suit schedule properties in favour third parties in order to make wrongful gain and to deprive the rights of the plaintiffs over the suit schedule properties. Hence, prays to allow the application.

3. The defendants filed written statement and also memo to treat the same as objections to the above application by denying the existence of joint family between the parties and further taken a contention that the defendant No.2 has come

out from the joint family from 20 years back and residing separately. Out of his own earnings, he has purchased the property bearing Sy.No.16/10 measuring 23 guntas and another property bearing Sy.No.149/1 measuring 2 guntas from one Muniyamma through a registered sale deed dated 16-6-2012. Hence, it is the self acquired property of this defendant and he has sold the said properties in favour of prospective purchasers. Neither the plaintiffs nor the defendant No.1 has made parties to the said sale deeds. Further, he has purchased the suit schedule item No.3 property on his own capacity and he never utilize the joint family funds to purchase the said property. Hence, the said property is not available for partition since it is the self acquired property of this defendant. The suit schedule item No.1 and 2 properties are only the joint family properties purchased by the father of the plaintiffs and defendant No.2. Further, the plaintiffs have not included all the properties of the joint family for effecting partition. The plaintiff No.1 being the kartha of the joint family has falsely included the item No.3 and 4 of the schedule property in the suit by colluding with each other. Hence, the suit is liable to be rejected in respect

of suit item No.3 and 4 properties otherwise this defendant will be put to great loss and hardship which cannot be compensated by any means. Hence, prays to reject the application.

4. 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?

5. 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 Affirmative,
Point No.4 :	As per the final order for the following;

REASONS

6. **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 partition and separate possession with respect to suit schedule properties alleging that themselves and the defendants constituted a Hindu undivided joint family and they are in joint possession and enjoyment of the suit schedule properties. The suit schedule item No.3 and 4 properties are purchased in the name of defendant No.2 under joint family nucleus. Therefore, they are entitled to equal share in the said properties.

7. The plaintiffs in support of their case they have produced the genealogical tree, ration card, sale deed dated 8-4-2002 through which their father by name Appanna has purchased the suit item No.1 property for valuable consideration. Further produced RTC and mutation extracts,

copy of sale deeds through which the defendant No.2 has purchased the suit item No.2 property, other sale deeds, EC, agreement and release deed through which other daughters of defendant No.1 by name Bharathi, Sujatha and Parijatha were relinquish their right over their joint family properties.

8. The defendant No.2 through his written statement denied the suit claim made with respect to suit item No.3 property and further taken a specific contention that the said property was purchased from his self earnings as he was doing real estate and wood work business. Further, the plaintiffs have not contributed to purchase the said property. The suit item No.1, 2 and 4 properties are the joint family properties and he is having equal share in the said properties. The defendant No.1 filed written statement by admitting the suit claim and claimed an equal share in the suit properties.

9. The defendant No.2 in support of his case has produced the license with regard to his wood work business, copy of FD receipt, discharge summary, copy of sale deeds, RTC extracts and agreement of sale.

10. On perusal of available records and the arguments canvased by both the respective counsels it is an admitted fact that the suit schedule item No.1 and 2 properties are belongs to the joint family and as per sale deed dated 8-4-2002 suit item No.2 property was purchased by the father of the plaintiff and defendant No.2 from Renukamma and others for valuable consideration. The said Annappa died intestate on 14-11-2012.

11. Furthermore, both the parties have admitted the existence of joint family with respect to suit item No.1 and 2 properties and further they have also admitted that the suit item No.4 property is also belongs to joint family which was purchased jointly.

12. It is the specific contention of the defendant No.2 that suit item No.3 property bearing Sy.No.17, an extent of 6 acres 23 guntas is his self acquired property and there is no contribution from the plaintiffs and defendant No.1. Further argued that in the year 2006, the defendant No.2 met with an accident and he got compensation. Further, from the earnings of his wood work and real estate business he has purchased the said property.

But, the same was denied by the plaintiffs and further produced the account extract which shows that the plaintiff No.1 has paid sufficient money to the defendant No.1 on various dates.

13. It is the contention of the plaintiffs that they have contributed to purchase the said property from the joint family nucleus. Whether the said property was purchased from the joint family nucleus in the name of defendant No.2 or not it requires a full fledged trial.

14. As per sale agreement produced by the parties clearly goes to show that the defendant No.2 and his family members have executed agreement to sale in favour of Aditya Taapasi Estates agreeing to sell the same. Therefore, if the defendant No.2 is allowed to create any encumbrance over suit properties, the plaintiffs and defendant No.1 may put to great hardship and injustice and it may create multiplicity of proceedings between the parties. Hence, for the above reasons, I answered point No. 1 to 3 in the “**Affirmative**”.

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

O R D E R

I.A.No.1 filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC is hereby allowed.

The defendants are hereby restrained from alienating or creating any mode of documents in respect of the suit schedule Item No. 1 to 3 properties in favour of third parties pending disposal of the suit.

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 6th day of September 2025.)

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