

**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 9<sup>th</sup> day of April - 2026**

**O.S.No.805/2025**

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

- V/s -

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

i. Provision under which the application is filed.	U/o 39 Rule 1 and 2 of CPC. U/o 39 Rule 4 of CPC
ii. Relief sought for	Temporary injunction.
iii. The date in which the application is filed	1) 28-8-2025 2) 13-11-2025
iv. Number of the application	IA No.2 and 6
v. The date on which the objections are filed by different opponents	13-11-2025
vi. The date on which the orders were passed on the said application.	09-04-2026

**Orders on I.A.No.2 and 6**

The plaintiffs have 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 defendant No.1 and 2 from alienating or

encumbering the suit schedule property to any third parties till disposal of the suit.

2. The defendant No.1 and 2 have filed I.A.No.6 U/o 39 Rule 4 R/w Section 151 of CPC to vacate an ad interim order of exparte temporary injunction granted on 30-08-2025.

3. In the annexed affidavit it is stated that the suit schedule properties are the ancestral and joint family properties of the plaintiffs and defendants and they are in peaceful possession and enjoyment over the said properties and till today there was no partition among themselves. When such being the case, the defendants by colluding with each other have created the revenue records in their names and now they are trying alienate the same in favour of third parties in order to deprive the right of the plaintiffs over the same. Hence, prays to allow I.A.No.1 and prays to reject the I.A.No.6.

4. On service of suit summons, the defendant No.1 and 2 appeared and filed written statement and also filed I.A.No.6 under Order 39 Rule 4 R/w Section 151 of CPC by denying the statement made by the plaintiffs and further taken a contention that the defendant No.2 had acquired the suit schedule item No.2

and 3 properties through a registered Will dated 23-8-1990 executed by his grand father by name Ramaiah. After the demise of said Ramaiah, the revenue records were mutated in his name and he is in lawful possession and enjoyment of the said properties. The defendant No.2 along with one Muniraju have sold the said properties to the prospective buyers. Hence, the said properties are not the joint family properties nor in joint possession of the plaintiffs and defendants. Under the above circumstances the application is not maintainable and also prays to vacate the interim order.

5. Both the parties in their favour have relied upon the copies of documents.

6. Based upon the above contentions of the plaintiffs and defendants, 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 favour of the plaintiffs?
3. If temporary injunction is not granted who will suffer great hardship and injustice?

4. Whether the defendant No.1 and 2 have made out sufficient grounds to allow the I.A.No.6 ?

5. What order?

7. 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 : In the Affirmative,

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

### **REASONS**

8. **Point No. 1 to 4:-** 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 in respect of suit schedule properties .

9. The defendant No.1 and 2 through their written statement have denied the existence of joint family between the parties and also taken a specific contention that the suit properties are belongs to their grand father by name Ramaiah who bequeathed

the suit properties through registered Will dated 23-08-1990. By virtue of same and after the death of their grand father khatha was mutated in the name of defendant No.1 and 2.

10. The plaintiffs in support of their application have produced G-tree, RTC and Mutation extract which shows the suit property earlier belongs to one Bachappa and after his death as per partition khatha was mutated in the name of defendant No.1 and 2.

11. The defendants in support of their defense have produced the copy of Will dated 23-08-1990 executed by one Gujjappa in favour of Narayanaswamy, defendant No.2 with respect to property the bearing Sy. No.62/3. Further, they have produced RTC and mutation extracts.

12. On perusal of available records and the pleadings, it clearly goes to show that the suit properties are earlier belongs to one Bachappa who is the grand father of plaintiffs. But, as per Will dated 23-08-1990 one by name Gujjappa bequeathed the property bearing Sy. No.63/2 in favour of Narayanaswamy and defendant No.2 which is not a subject matter of this suit.

13. Further as per copy of sale deed dated 08-09-2025 the defendant No.1 and 2 and other family members have sold the suit properties in favour of proposed defendants for valuable consideration. Furthermore, the plaintiffs have also filed I.A U/o 1 Rule 10(2) of CPC to implead the said subsequent purchasers as parties to this suit which is not yet disposed off.

14. On perusal of available records the plaintiffs are claiming the relief of partition and separate possession in respect of suit schedule properties and also claiming the relief of temporary injunction restraining the defendants from alienating or creating any mode of documents with respect to the suit schedule property.

15. The plaintiffs through the above application contended that after filing of this suit and though an order of temporary injunction is in force, the defendant No.1 and 2 have sold the suit schedule properties in favour of proposed defendants. Here in this case, the defendant No.1 and 2 have sold the suit schedule properties in favour of proposed defendants, therefore granting an order of temporary injunction against the defendants on the above application become infructuous. If an order of temporary

injunction is continued against the defendant No.1 and 2 no purpose would be served.

16. At this stage, the plaintiffs have not made out any prima facie case and the balance of convenience is also not lies on their favour. If an order of temporary injunction is granted, the defendants will be put to great loss and injustice. Hence, on the above reasons, I answered point No.1 to 3 in the “**Negative**” and Point No.4 in “**Affirmative**”.

17. **Point No.5:-** In view of the aforesaid findings on point No.1 to 4, I proceed to pass the following:

### **ORDER**

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

The I.A.No.6 filed by the Defendant No.1 and 2 under Order 39 Rule 4 R/w Section 151 of CPC is hereby allowed.

The Interim order granted on 30-08-2025 stands vacated.

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 9<sup>th</sup> day of April 2026.)

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



