

**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 17th day of March - 2026

O.S.No.282/2022 (Old No.1562/2019)

Plaintiff/s : Sri.P.Ramaiah

- V/s -

Defendant/s : Smt.Gowramma & Ors.

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	16-07-2025
iv. Number of the application	IA No.1 and 2/2025
v. The date on which the objections are filed by different opponents	30-08-2025
vi. The date on which the orders were passed on the said application.	17-03-2026

Orders on I.A.No.1 and 2/2025

The plaintiff has filed I.A.No.1/2025 under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking an order of temporary

injunction restraining the defendant No.6 to 10 from putting up of any constructions in respect of suit item No.2 property in any manner pending disposal of the suit.

2. Further he has also filed I.A.No.2/2025 under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking an order of temporary injunction restraining the defendant No.5(a), (b) to 10 from alienating or encumbering the suit schedule properties in favour of third parties pending disposal of the suit.

3. In the annexed affidavits it is stated that, he has filed the above suit against the defendants for partition and separate possession with respect to suit schedule properties. The suit schedule properties are the ancestral joint family properties of plaintiff and defendant No.1 to 5 and they are in possession and enjoyment of the said properties and there was no partition till today.

When such being the case, the defendant No.1 to 5(a), (b) and defendant No.6 colluded with each other have created the sale deed dated 22-5-2004 with respect to suit item No.3 property. Further, the defendant No.5(a), (b) and 7 to 10 by

colluding with each other created the sale deed in favour of defendant No.7 and 8. Further the defendant No.5(a) and (b) have also executed the sale deed dated 12-7-2021 in favour of defendant No.9 and 10 with respect to suit schedule properties. The defendants having no manner of exclusive right and title over the suit schedule properties have created the sale deeds in order to deprive the right of the plaintiff over the suit schedule properties. Hence, prays to allow the applications.

4. The defendant No.5(a), (b) and 7 to 10 filed written statement and also memo to treat the same as objections to the above applications wherein they have denied the statement made by the plaintiff and further contended that in the year 1990 itself there was a oral partition between the children of original propositus by name Puttamma with respect to joint family properties. The plaintiff and husband of defendant No.1 to 3 were taken their shares in the joint family properties. The father of defendant No.5(a) and (b) by name Rajanna was a central government employee has not taken any share from the joint family properties. In the year 1990 the plaintiff was

separated from the joint family and resided separately from taking his share. Hence, there was no ancestral joint family properties available for partition as alleged by the plaintiff and the suit for partition is not maintainable. Hence, prays to reject the applications.

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

1. Whether the plaintiff has made out prima facie case in his favour?
2. Whether the balance of convenience lies in his 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 plaintiff has filed the above suit against the defendants for the relief of partition and separate possession in respect of the suit schedule properties and also declaration that the sale deed dated 22-5-2004 is not binding on him.

8. The defendants through their written statement have denied the existence of joint family and further taken a specific contention that the suit schedule item No.1 and 2 properties are the self acquired properties of the father of the defendant No.5(a) and (b) purchased through registered sale deeds dated 5-5-1994 and 4-10-1995. From the date of purchase they are in joint possession and enjoyment over the said properties. Further, contended that in the year 1990 they are residing separately by taking their shares.

9. The plaintiff in support of his case has produced the genealogical tree, RTC extracts along with copy of sale deed dated 22-5-2004 executed by Narayanappa in favour of defendant No.6 with respect to suit item No.3 property for valuable consideration. As per sale deed, katha was mutated in the name of defendant No.6 under MR.No.28/2003-04.

10. The defendants in support of their defense have produced the copy of voter list, certificate issued by the Ministry of Defense, copy of sale deed dated 5-5-1994 through which one Rajanna purchased the suit item No.1 property, another sale deed dated 4-11-1995 in respect of suit item No.2 property, sale deeds dated 12-7-2021, mutation and assessment register extracts. Further, the defendants have also produced the copy of order sheets of O.S.No.1454/2012 and 308/2019 which were filed by the plaintiff against one Rajanna and others for partition and the said suits were dismissed for default.

11. On perusal of all the above records which clearly goes to show that the plaintiff himself has filed the suit for partition

in O.S.No.1454/2012 and 308/2019 which were dismissed for default. Against the said order the plaintiff has not preferred any appeals or for restoration of said suits. Further, as per sale deeds produced by the defendants clearly goes to show that the suit item No.1 and 2 properties were purchased by the father of the defendant No.5(a) and (b) for valuable consideration in the year 1994-95.

12. Whether the said properties were purchased on behalf of the joint family or from nucleus of the joint family, except the oral allegations the plaintiff has not produced any material documents and also not disclosed about the said sale transactions.

13. Further, the plaintiff has not produced any material documents to prove that the suit schedule properties are standing in the name of his father by name Puttappa and there is no partition among themselves. Furthermore, the suits filed by the plaintiff which were dismissed for default and he has not challenged the same. Therefore, at this stage the plaintiff has not

made out any prima facie case and the balance of convenience is also not lies on his favour. Hence, on the above reasons, I answer point No.1 to 3 in the “**Negative**”.

14. **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 and 2/2025 filed by the plaintiff under Order 39 Rule 1 and 2 R/w Section 151 of CPC are 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 17th day of March 2026.)

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

