

**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 14th day of October - 2025

O.S.No.304/2022

Plaintiff/s : Smt.Munilakshamma & Ors.

- V/s -

Defendant/s : Sri.Lakshmikantha & 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	13-12-2024
iv. Number of the application	IA No.2/2024
v. The date on which the objections are filed by different opponents	7-3-2025
vi. The date on which the orders were passed on the said application.	14-10-2025

Orders on I.A.No.2/2024

The plaintiffs have filed the above application under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking an order of

temporary injunction restraining the defendant No.1 from creating the sale deed in respect of the suit schedule B property pending disposal of the suit.

2. In the annexed affidavit it is stated that, they have filed the above suit for the relief of partition and separate possession against the defendants in respect to suit schedule properties. The suit schedule properties are the Hindu undivided joint family properties of the plaintiffs and defendants and there was no division till today. The defendant No.1 by playing fraud with an intention to deprive the right of the plaintiffs has executed a registered sale agreement in respect of portion of suit schedule B property. Hence, prays to allow the application.

3. The defendant No.1 filed objections to the above application wherein he has denied the statement made by the plaintiffs and further contended that the plaintiffs are not the joint family members and they have no manner of right, title, interest and possession over the suit schedule B property. Further, the plaintiff has not mentioned the survey number and the boundary, hence the application is not maintainable.

Further, the plaintiffs have also executed the release deed in his favour and his father and they have also admitted in their cross examination. In order to drag on the proceedings the plaintiffs have filed the above application 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 in respect of suit schedule properties and also declaration that the sale deed dated 6-8-2012 is not binding on them.

7. In the affidavit they have stated that themselves and the defendant No.1 are the children of one Late.Byrappa and after his death they have continued in joint possession over the suit properties. Now, the defendant No.1 in order to deprive the rights of the plaintiffs, he applied for revenue sketch to alienate the said property.

8. The defendant No.1 through his objections has denied the existence of joint family between the parties and further taken a specific contention that he is the only son of

Late.Byrappa to succeed the suit schedule A and B properties along with other properties situated at Naduvathi Village. The defendant No.2 is a bonafide purchaser of the suit schedule A property. Further, contended that if the plaintiffs have proved that they are entitled for any share over the suit properties, they may be allotted suit B schedule property by allotting schedule A property in favour of defendant No.1 by confirming the sale deed executed in favour of defendant No.2.

9. The plaintiffs in support of their case have produced Ex.P-1 to 19 i.e., genealogical tree, assessment extracts, copy of sale deed and RTC extracts.

10. Further, the defendant also produced the unregistered release deed as Ex.D-1, EC along with copy of sale deeds.

11. On perusal of all the above records which clearly goes to show that the suit schedule properties are belongs to the father of the plaintiffs by name Late.Byrappa who died intestate. The defendant through his written statement also admitted the existence of joint family and further taken a specific contention

that the plaintiffs have executed a release deed in favour of defendant No.1 and his father on 11-4-2002. Whether the plaintiffs have executed a release deed or not and the plaintiffs are entitled to the suit relief, it requires a full fledged trial.

12. At this stage, if the defendant No.1 is allowed to alienate or create any mode of documents in respect of the suit B schedule property, the very purpose of filing the suit will be defeated and it may create multiplicity of proceedings between the parties. At this stage, the plaintiffs have made out a prima facie case and the balance of convenience is also lies on their favour. Hence, for the above reasons, I answered point No. 1 to 3 in the "**Affirmative**".

13. **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.2/2024 filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC is hereby allowed.

The defendant No.1 is hereby restrained from alienating the suit schedule B property

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 14th day of October 2025.)

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