

**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 16<sup>th</sup> day of October – 2024**

**O.S.No.900/2023**

**Plaintiff/s** : Smt.Padmamma and others.

- V/s -

**Defendant/s** : Sri. Narayanappa and others.

i. Provision under which the application is filed.	U/o 39 Rule 1 and 2 of CPC
ii. Relief sought for	Temporary injunction.
iii. The date in which the application is filed	19-03-2024
iv. Number of the application	IA No.3
v. The date on which the objections are filed by different opponents	-
vi. The date on which the orders were passed on the said application.	16-10-2024

**Orders on I.A.No.3**

The plaintiffs have filed the I.A.No.3 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 alienating, encumbering or creating any sale deed over the suit schedule property pending disposal of the suit.

2. In the annexed affidavit it is stated that, the plaintiffs and defendants are Hindu undivided joint family members and the suit schedule property is the joint family property of both the plaintiffs and defendants. There is no division between the parties. Though the defendants have no exclusive right and title over the suit schedule property, during pendency of the suit the defendants are trying to alienate the same in favour of third parties. If the defendants succeeded, the plaintiffs will be put to irreparable loss and injury. Hence, prays to allow the applications.

3. Though the suit summons was served on the defendant No.1 he remain absent.

4. Based upon the above statement of the plaintiffs the 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 the records. 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 partition and separate possession in respect to suit schedule property. In the affidavit it is stated that themselves and the defendants constituted a Hindu undivided joint family and they are in joint possession and enjoyment of

suit property. If the defendants are alienated the same, they may put to great loss and injustice.

7. The defendant No.1 remain absent and also not denied the allegations made against him by filing written statement. The plaintiffs in support of their case they have produced G tree, Partition Deed dated 14-07-2005, Copy of Sale deeds and Gift Deed along with RTC Extracts. On perusal of RTC extracts for the year 2023-24 the suit property is in the name of defendant No.1 an extent of 39 guntas. The plaintiffs and the defendant No.1 to 16 being the legal heirs of Venkataramanappa the above suit is filed for partition. Whether the plaintiffs are having equal share in the application schedule property or not it requires a full fledged trial. If the defendant No.1 is allowed to alienate the suit property or created any mode of documents in respect of the suit schedule property, the very purpose of filing the suit will be defeated and it may leads to multiplicity of proceedings between the parties. Hence, at this stage the plaintiffs have made out a prima facie case and balance of convenience also lies on their favour. If the application is not allowed, the plaintiffs will be put to great loss and injustice rather than the defendant No.1. Hence,

on the above reasons, I answered point No. 1 to 3 in the “**Affirmative**”.

8. **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.3 filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC is hereby allowed.

Further, the defendant No.1 is hereby restrained from alienating, encumbering or creating any documents over the application schedule property 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 16<sup>th</sup> day of October - 2024.)

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

Order pronounced in the open court  
vide separate :

**ORDER**

I.A.No.3 filed by the plaintiffs under  
Order 39 Rule 1 and 2 R/w Section 151 of  
CPC is hereby allowed.

Further, the defendant No.1 is hereby  
restrained from alienating, encumbering or  
creating any documents over the  
application schedule property pending  
disposal of the suit.

No order as to costs.

Re-issue summons to Defendant No.7  
to 11, 16, 18 to 21, if PF is paid.

Call on.

Senior Civil Judge & JMFC,  
Hosakote.