

**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 January – 2026

O.S.No.1570/2022 (Old No.1469/2022)

Plaintiff/s : Sri.Muniyappa & Ors.

- V/s -

Defendant/s : Sri.Muddanna & Ors.

i. Provision under which the applications are 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	5-7-2022 19-08-2025
iv. Number of the application	IA No.1 and 4
v. The date on which the objections are filed by different opponents	17-02-2024
vi. The date on which the orders were passed on the said application.	17-01-2026

Orders on I.A.No.1 and 4

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 in favour of third parties pending disposal of the suit.

2. Further they have also filed I.A.No.4 under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking an order of temporary injunction restraining the defendants from developing or changing the nature of the suit schedule property pending disposal of the suit.

3. In the annexed affidavits it is stated that, the defendant No.1 had acquired the suit schedule property through partition deed dated 17-3-2004. From the date of said partition the plaintiffs and defendants are in joint possession and enjoyment of the suit schedule property. The defendant No.1 without the knowledge and consent of the plaintiffs has executed the gift deed dated 17-7-2025 in favour of defendant No.3 with respect to suit item No.1 to 3 properties. Further, he has also executed another gift deed in favour of defendant No.4 with respect to suit item No.4 property. Thereafter, the defendant No.1 to 3 jointly executed an agreement to sale dated 15-7-2025 in favour of one Jonas with respect to suit item No.1 to 3 properties. Now, the

defendants colluding with each other have developed the said properties and tried to change the nature of the same. Further, they are making hectic efforts to alienate the suit schedule properties in favour of third parties and trying to dispossess the plaintiffs in order to deprive their legitimate right over the same. Hence, prays to allow the applications.

4. The defendant No.5 has filed written statement and contended that the suit schedule properties are the self acquired properties of the defendant No.1 hence plaintiffs have no right to claim or seek partition on the self acquired properties during his life time. The defendant No.1 as an independent owner has executed the registered gift deed dated 30-3-2006 in favour of this defendant. Hence, plaintiffs have not made out any grounds to file the present suit and they are not entitled for any relief they sought. 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 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?

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 Affirmative,
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 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 gift deed dated 30/3/2006 is not binding on them.

8. The plaintiffs in support of their case have produced the genealogical tree, RTC and mutation extracts, copy of partition deed dated 17-3-2004 along with genealogical tree dated 30-3-2006.

9. The defendant No.5 through her written statement has denied the existence of joint family and also taken a contention that the said Muniyamma the mother of the defendant No.5 has executed the gift deed in her favour. From the date of said gift deed she is in possession and enjoyment over the said property by effecting katha in her name. The plaintiffs and other defendants cannot seek any partition in the said property.

10. In support of her defense, she has not produced any material documents.

11. On perusal of available documents and the registered partition deed dated 17-3-2006 which clearly discloses that the father of the plaintiffs by name Muddanna acquired the suit schedule property through partition deed. Further, they have also produced RTC extracts which shows that the suit schedule

properties are the joint family properties of plaintiffs and defendants. Whether the said Muddanna having exclusive right over the said property to gift the same in favour of Lakshamma on 30-3-2006, it requires a full fledged trial.

12. At this stage, if the defendants are allowed to alienate or create any mode of documents with respect to suit schedule properties it may create multiplicity of proceedings between the parties and the plaintiff may put to great loss and injustice. 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.1 and 4 filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC are hereby allowed.

The defendants are hereby restrained from alienating or creating any mode of documents with respect to suit schedule properties and further restrained from changing the nature of

the suit schedule properties 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 17th day of January 2026.)

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

