

KABR610076972021



IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC.,
NELAMANGALA.

Dated this the day 3rd day of June, 2026

PRESENT: Sri. Manju.M, B.Sc., L.L.B.,
I Addl. Civil Judge & JMFC.,
Nelamangala.

O.S.No.351/2021

Plaintiff: Gangalakshamma,
D/o late Gangaiah @ Tarki Gangaiah,
Aged about 45 years,
R/at Behind Surya Bakery,
Sundar Nagara, Arishinakunte
village, Kasaba Hobli,
Nelamangala Taluk,
Bengaluru Rural District

[By Sri. N.R.N., Advocate]

V/s

Defendants:1. Narasimhamurthy S/o late Nagaraju,
Aged about 30 years,
2. Nataraju S/o late Gangaraju,
Aged about 28 years,
3. Santhosh S/o late Gangaraju,
Aged about 25 years,

4. Muniraju,
S/o late Gangaiah @ Tarki Gangaiah,
Aged about 43 years,

All are R/at Behind Krishna Saw Mill,
Basavanahalli village, Kasaba Hobli,
Nelamangala Taluk,
Bengaluru Rural District.

5. N.V.Siddappa S/o Veerabhadraiah,
Major,
6. N.V.Veeranna S/o Veerabhadraiah,
Major,
7. N.V.Bhadraiah S/o Veerabhadraiah,
Major,
8. N.V.Shivanna S/o Veerabhadraiah,
Major,
9. N.V.Shivarudraiah S/o Veerabhadraiah,
Major,
10. N.V.Chandrappa S/o Veerabhadraiah,
Major,

D5 to D10 are all
R/at Opp. Ganesh Saw mill,
Vishweshwarapura village,
Kasaba Hobli, Nelamangala Taluk,
Bengaluru Rural District.

[D1 By Sri. C.R.V., Advocate]
[D2 to 4 by Sri D.K., Advocate]
[D5 to 10 by Sri.B.R.K., Advocate]

PARTIES IN IA

Applicant/Plaintiff: Gangalakshamma

V/s.

Opponent/Defendants: Narasimhamurthy and others.

**ORDER ON I.A. FILED UNDER ORDER 39 RULE 1 AND
2 OF CIVIL PROCEDURE CODE.**

This is an application under Order 39 Rule 1 and 2 of CPC filed by the Plaintiff praying to pass an order to restraining the Defendants, their agents, servants or anybody claiming under them from put up construction in the suit schedule property in any manner whatsoever, till disposal of the suit.

2. This application is supported by an affidavit of the Plaintiff. In the said affidavit the Applicant has submitted that, the plaintiff has filed a suit against the defendants for the relief of partition and separate possession over the suit schedule property. Further, it is submitted that the plaintiff is having legitimate share over the suit schedule property but the defendants are trying to

construct the building in the suit schedule property. Hence, this application.

3. Further, the Applicant raises the usual plea of prima facie case and balance of convenience and irreparable loss and injury. Further, the Applicant has also contends that if this application is allowed no prejudice would be caused to the Defendants. By contending so, the Applicant has prayed for allowing this application.

4. In the case on hand, the defendant No.5 to 10 has filed objection denied the allegation of facts made by the plaintiff and contended that the suit schedule property owned and possessed by one Gangaiah S/o Tarki Gangaiah and he had acquired the suit property by way of grant under Inam Abolition Act as he was under the personal cultivation of Inam land and the suit property was the self acquired property of Gangaiah. Further, it is contended that the aforesaid Gangaiah has sold the suit property for his necessities in favour of defendant

No.5 herein under registered sale deed dated 22.08.1974. Further, it is contended that the katha of the suit property had been mutated into the name of defendant No.5 herein and the defendant No.5 became absolute owner in possession and enjoyment of the suit property. Further, it is contended that the defendant No.5 has purchased the land bearing Sy.No.77 measuring 20 guntas from Smt Muddamma and her children under registered sale deed dated 30.04.1974. Further, it is contended that the defendant No.5 became absolute owner of the said property. Further, it is contended that the defendant No.5 to 10 have divided the said properties by way of partition and the defendant No.5 to 10 have jointly applied for conversion of the said property from agricultural purpose to residential purpose and the Deputy Commissioner has ordered for conversion of said suit properties on 26.08.2006 and accordingly individual sites are formed in the said property. Further, it is contended that the defendant No.8 has also constructed a house in two sites allotted

his shares. Further, it is contended that the plaintiff alleging the daughter of one Tarki Gangaiah has filed this false suit with an intention to make a wrongful gain. Further, it is contended that the suit schedule property is not agricultural land and it is converted for residential purpose and the residential layout is already formed in the suit schedule property. Further, it is contended that the suit is barred by limitation. Hence, prays to dismiss the application.

5. Counsel for plaintiff and defendants submitted that the arguments may be taken as heard. Perused the documents on record.

6. Following points arise for my consideration.

1. Whether the Plaintiff has made out a prima facie case for grant of temporary injunction?
2. Whether the Plaintiff will be put to irreparable loss and hardship, if the injunction is not granted?
3. Whether the balance of convenience lies in favour of the Plaintiff?

4. What order?

7. My findings on the above points are as follows:-

Point No.1 : **In the Negative**

Point No.2 : **In the Negative**

Point No.3 : **In the Negative**

Point No.4 : **As per final order**

For the following:-

REASONS

8. **Point No.1 to 3:** Since these three points are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts and circumstances.

9. The law relating to grant of temporary injunction is well settled. The Plaintiff who approaches the court has to prove three basic principles namely existence of prima facie case, balance of convenience and irreparable loss and injury. The court must be satisfied that there must be a prima facie case in favour of the Plaintiff that there is balance of convenience in favour of the Plaintiff and if the temporary injunction is refused the Plaintiff would be put to irreparable loss and injury. Apart from this the

conduct of the party approaching the court has also to be considered. Injunctive relief is a discretionary relief and an equitable relief. Thus being the case, the person who seeks equity must do equity. In order to grant relief of temporary injunction the Plaintiff has to establish that three vital aspects, i.e., prima facie case, balance of convenience lies in his favour and that they would be put to irreparable loss and injury in case injunction is not granted.

10. Having considered the documents available on record, it is relevant to note that, the plaintiff seeking the relief of partition and separate possession in respect of suit property by contending that she is the daughter of Gangaiah @ Tarki Gangaiah but the said Gangaiah has sold the suit property in favour of defendant No.5 under registered sale deed dated 22.08.1974. Further, as per the documents on record, the suit property converted from agriculture to residential purpose. Further, in the case on hand, the plaintiff yet to prove her case and if the plaintiff will prove her case, she will be entitled for

share. At this stage, the plaintiff has not made out a prima facie case. In order to appreciate the contention of the plaintiff, a full fledged trial is required.

11. At this stage, the plaintiff has not made out a prima facie case and balance of convenience also not lies in favour of the plaintiff. Considering all these facts, this court is of the opinion that, the plaintiff has failed to prove that the above said three mandatory components are in her favour at this stage. Accordingly, I proceed to answer **Point No.1 to 3 in the Negative.**

12. Point No.4: In view of my findings on point No.1 to 3, I proceed to pass the following;

ORDER

I.A. filed by the Plaintiff under Order 39 Rule 1 and 2 of CPC is hereby dismissed.

Under the circumstances parties shall bear their own cost.

(Dictated to the Stenographer directly on computer, typed by him, corrected and signed by me and then pronounced in the open Court, on this **3rd day of June, 2026**)

Sd/-
I Addl. Civil Judge & JMFC,
Nelamangala.