



**IN THE COURT OF THE III ADDL. DISTRICT &
SESSIONS JUDGE, CHIKKABALLAPURA.**

:PRESENT:

SHRI. SIDDANNA B. HANDRAL.
B.Sc.,LL.B (Spl)
III Addl. Dist. & Sessions Judge,
Chikkaballapura.

MISCELLANEOUS APPEAL No.38/2026

DATED THIS THE 31st DAY OF AUGUST, 2026

APPELLANTS

1. Sri.Muniraju.T.B.
S/o. Late Byranna,
Aged about 55 years.
2. Sri.Chandrakrishna.T.B.
S/o. Late Byranna,
Aged about 52 years.
3. Sri.Jayadeva.B.
S/o. Late Byranna,
Aged about 49 years.

All are R/at, Thalahalli Village,
Majara Kanithahalli,
Sriramapura Post,
Nandi Hobli, Chikkaballapura Taluk.
(By Shri. S.G.K., Advocate)

//Vs.//

RESPONDENTS

1. Smt.Akkayamma,
W/o. Late Munishamappa,
Aged about 74 years,
R/at Belluti village,
Kasaba Hobli,

Sidlagatta Taluk,
Chikkaballapur District.

2. Sri.Venkateshappa,
S/o. Late Munishamappa,
Aged 64 years.
3. Smt.Kusuma,
D/o. Venkateshappa,
Aged about 40 years.
4. Smt.Kumdashree,
D/o. Venkateshappa,
Aged about 39 years.
5. Sri.Kushvanthkumar,
S/o. Venkateshappa,
Aged about 36 years.
6. Sri.B.M.Narayanaswamy,
S/o. Late Munishamappa,
Aged about 63 years.
7. Smt.Chaithrashree,
D/o.P.M.Narayanaswamy,
Aged about 30 years.
8. Sri. Jagadish.M.
S/o. Late Munishamappa,
Aged about 58 years.

The Respondents 2 to 8 are
legal heir of Narayanamma,
The respondent No.2 to 8 are
R/at Nakkanahalli village,
Kondenahalli Post,
Nandi Hobli,
Chikkaballapur Taluk & District.

9. Prakash,
S/o. M.R.Shivareddy,
Aged about 45 years,
R/at No.107/4,
Chokkanahalli layout,
Jakkur Post,

Bangalore - 64

(By Shri. A.V.N., Advocate)

Date of institution of suit : 02.07.2026

Miscellaneous Appeal against : Appeal against the order on I.A No.I in O.S.No.144/2025 dated 26.02.2026

Date on which Judgment Pronounced : 31/08/2026

Total Duration : 1 Month 29 Day/s

J U D G M E N T

Being aggrieved by the order of the learned Sr. Civil Judge and J.M.F.C., Chikkaballapura dated 26.02.2026 on Interim application filed under Order 39 Rule 1 and 2 of CPC in O.S.No.144/2025, the appellant has filed the present appeal U/o. 43 Rule 1(r) of CPC.

2. The appellant was the plaintiff and respondents were the defendants before the learned trial Court. Parties are referred as per their respective ranks assigned before the learned Trial Court.

3. Brief facts of the case is as under;

The suit property originally belongs to one Byakka. After her death, her daughter by name Muniyamma was acquired the suit property by inheritance. The father of the

plaintiff No.1 and his brothers were entered into partition on 25.10.1976 and the suit property was allotted to the Byamma under the unregistered partition deed. The suit property was wrongly entered to the names of Narayanamma and Akkayamma. But the defendants have obtained the mutation in their name without having any manner of right, title or interest over the suit property and are trying to alienate the suit property, if the defendants are not restrained from committing the illegal acts, they will succeed in their attempts to illegal acts, causing harm to the plaintiffs. The plaintiffs have made out a prima facie case, balance of convenience lies in their favour, and if the equitable relief of temporary injunction is not granted in their favour, they will be put to irreparable loss and hardship.

4. The defendant No. 1 to 9 have appeared through their counsel and filed memo to adopt the written statement as objection to the application.

5. The Learned Trial court has heard the arguments canvassed by both counsels and thereafter framed the following points for its consideration,

1. Whether the plaintiffs have made out a prima facie case for grant of temporary injunction as sought for ?
2. Whether the balance of convenience lies in favour of the plaintiffs ?
3. Whether the plaintiffs will be put to irreparable loss and hardship if I.A.No.1 is not allowed ?

4. What order ?

6. Thereafter, the learned trial court has passed the following order;

O R D E R

The I.A.No.I filed by the plaintiff under order 39 Rule 1 and 2 of Civil Procedure Code is hereby rejected.

No order as to cost.

7. The appellant being aggrieved from the said impugned order has challenged the same on the following grounds:

GROUND S

i. The trial court has gravely erred in answering the points by not referring and perverse the entire pleadings and written statement of of the parties to the litigation. It is seen that the reasoning given by the trial court while answering the points totally opposed and contradictory to the documents on record. This the entire finding of the trial court is utterly perverse and arbitrary and the same is conjecture and surmises, this the finding of the trial court is oppose to the settled principles of law, the trial court has not rendered impartial order. The same is utterly perverse and arbitrary and the same is liable to be set aside.

ii. The trial court has framed three points while answering the points 1 to 3 are common discussion and answer points No.1 to 3 are Affirmative, whether the

plaintiff proves that, the plaintiff is made out prima facie case to grant T.I. and 2nd point whether the balance of convenience lies in favour of the plaintiff and 3rd point whether the plaintiff will be put to loss and injury, if T.I. is not granted. The plaintiff has filed the suit against the defendant for declaration and permanent injunction against the defendants and IA under order 39 rule 1 and 2 of CPC to restrain the defendants not to alienate the suit schedule properties. The trial court has answer point No.1, 2 and 3 in the negative. The reason given by the trial court is wholly erroneous and not sustainable and the same liable to be set aside.

iii. The trial court ought to have considered it is the specific case of the plaintiff that the suit schedule property and other properties belong to Byakka after her death, her sons and daughters were entered into the partition dated 25.10.1976. The suit schedule property is allotted to Byaranna under an unregistered partition deed. The suit schedule property in respect of Sy.No.176 measuring 1-33 guntas out of which 1-10 guntas are allotted to Narayanamma and Akkayamma. The revenue authority has accepted the revenue entries in the name of Byaranna by way of partition. The Tahasildar, Chickballapur has accepted the revenue entries in his name in MR No.4/2000-21 dated 11.11.2000. As per the mutation accepted by the revenue authority the plaintiff is in possession and enjoyment of the suit schedule property, the remaining property of the Sy.No.176 measuring 0-23 guntas allotted to the defendants by oversight the entire property extent is mentioned in the RTC the

defendants are claiming the total extent of the properties. The trial court erroneously considered the documents produced by the plaintiffs and there is no document to show that the defendants acquired the property through partition in the entire extent. The trial court is not considered this fact while answering the point No.1 is Affirmative, but the point No.1 is Negative.

iv. The trial court is wrongly consider the facts of this case that the suit schedule properties in A-Schedule is allotted to the plaintiff, the Hon'ble Court did not come to the conclusion and wrongly considered the said facts while answering point No.1 is negative. The defense of the defendants in the written statement considered by the trial court passed erroneous order and dismiss the application filed by the plaintiffs.

v. the defendants are accepted the partition deed taking this undue advantage and sold the property in favour of defendant No.9, subsequently the defendant No.9 is trying to alienate the property in favour of 3rd parties, the trial court did not considered the plaint pleadings and documents did not consider that the plaintiff has made out a prima facie case and balance of convenience lies in their favour. The documents produced by the plaintiff clearly establish they are the absolute owners in possession and enjoyment of the suit schedule property. In the said circumstances the plaintiff prima facie establish his case and title over the suit schedule property. It was incumbent upon the trial court to have taken into consideration all the

documents produced by the plaintiff and thereby granted an order of temporary injunction.

vi. The trial court though have observed that it is for the court to look into prima facie and not prima facie title. When a prima facie case is made out on the basis of documents produced by the plaintiff and the plaintiff demonstrate possession and enjoyment of the suit schedule property by virtue of the partition deed between the family members, the same clearly demonstrate the plaintiff's peaceful possession and enjoyment of the suit schedule property. Accordingly the plaintiff have clearly establish his possession and enjoyment.

vii. The decisions relied on by the trial court are not applicable to the fact and circumstances of the case.

viii. The plaintiff have made out prima facie case and balance of convenience lies in their favour, the trial court failed to consider the documents of the plaintiff and other hand the taking into consideration to the facts and circumstances of the case as rendered the impugned order is highly illegal perverse and arbitrary, the impugned order is not legally sustainable.

ix. The trial court has given findings in point No.1, 2 and 3 are in Negative, but the pleadings and documents produced by the plaintiff trial court. The averments made in the plaint and documents are relied upon the same the plaintiff is proved the prima facie case and balance of convenience lies in their favour in this aspects. While

answering the point No.1, 2 and 3 are Affirmative. Thus it is clear case of perversity and arbitrariness in the findings of the trial court in this regard in opposed to all principles of law. The same is not sustainable and liable to be set aside.

x. The regulated to facts and circumstances of the case the order rendered in O.S.No.144/2025 is not justified in law and the same is liable to be set aside. Hence, the appellants prayed for setting aside the impugned order passed by the trial court by allowing the appeal.

8. In response to the notice, respondents appeared through their counsel and filed their detailed objections to the appeal memo.

9. Heard the arguments of the learned counsels of both parties and perused the materials placed on record.

10. The following points that are arise for consideration :

- 1) Whether trial court is justified in allowing the application for grant of temporary injunction by holding that the plaintiff has made out prima facie case, balance of convenience tilt in his favour and if injunction is granted, irreparable loss and injury will be caused to him ?
- 2) Whether the impugned order of the trial court in the present appeal is illegal, arbitrary and perverse and call for interference at the hands of this court ?
- 3) What order?

11. The above points are answered as under;

Point No.1 : In the Affirmative

Point No.2: In the Negative

Point No.3 : As per the final order for the
following;

REASONS

12. **Point No.1 & 2:** The learned counsel for appellant specifically argued that, the plaintiffs have filed this suit for declaration and injunction against the defendant by contending that, originally the suit property belongs to one Byakka and after her death her daughter Muniyamma was acquired the suit property by inheritance and the father of the plaintiff No.1 and his brothers were entered into partition on 25.10.1976 the suit property was allotted to the father of the plaintiff No.1 but the names of Narayanamma and Akkayamma i.e., defendant No.1 who were entered in the mutation records without having any manner of right to title or interest in the property and the defendants are trying to alienate the suit property hence, in order to restrain the defendant from committing illegal acts in respect of the suit property the plaintiffs have forced to file the suit before the trial court and have also filed IA No.1 under Order 39 Rule 1 and 2 r/w section 151 of CPC for grant of temporary injunction against the defendants but the trial court though the plaintiffs have made the prima facie case and balance of convenience in their favour and irreparable loss caused to them, it has rejected the application filed by the appellants.

13. It is also argued that, the trial court ought to have considered the case of the plaintiff that, the suit property and other property were acquired by the father of the plaintiff No.1 under partition deed dated 25.10.1996 and the suit schedule property i.e., Sy.No. 176 measuring 1-33 guntas out of which 1-10 guntas allotted to the father of the plaintiffs and remaining properties allotted to the Narayanamma and Akkayamma and the revenue authorities accepted the revenue entries in the name of father of the plaintiffs in M.R.No. 4/2000-01 dated 11.11.2000, as per the said mutation the plaintiffs are in the possession and enjoyment over the suit property and remaining 0-23 guntas of land in the suit survey number land allotted to the defendants but by over sight entire property extent has been mentioned in the RTC, based on that the defendants are claiming the total extent of the properties, hence, the trial court erroneously considered the documents produced by the plaintiffs and the defendants have not produced any documents to show that they acquired property through the partition in the entire extent, the defendants by taking undue advantage of their names appearing in RTC and sold the suit property in favour of defendant No.9 and subsequently the defendant No.9 trying to alienate the property in favour of the 3rd parties, the trial court did not consider the pleadings and document and hardship will be caused to plaintiffs and illegally rejected the application filed by the appellants. Hence, on these grounds the learned counsel for appellants

prayed to setting aside the impugned order passed by trial court by allowing the appeal.

14. On the hand, the learned counsel for the respondent has reiterated the contents of the written arguments during the course of his argument and has also produced copy of the partition deed dated 25.10.2026, RTC extracts, endorsement dated 05.05.2025, documents produced by the plaintiff before trial court and argued that, the trial court after considering the documents produced by the both parties and also considering the prima facie case and balance of convenience and irreparable loss, has rejected the application filed by the appellants and the learned counsel supported the findings given by the trial court in the impugned order and prayed for dismissal of the appeal with cost.

15. It is essential to note the limitation of this court that, while deciding the miscellaneous Appeal, the jurisdiction of this court is very limited. This court cannot interfere with the order of the trial court either granting or refusing to grant temporary injunction only on the ground that it can come to a different conclusion on the same set of facts, unless it is established that, impugned order of the trial court is capricious, arbitrary perverse and illegal. In this regard the trial court has referred the decision of Hon'ble High Court of Karnataka decided in MFA 101088/2020 dated 24.08.2020 between **Sri.Samsthan Mahabaleshwar Deva Gokarna and others Vs. UFM Ananthraj and others** and also the decision reported in

ILR 2006 (KAR)3961 between Reebok Company Vs. Gomzi Active. In the decision of Hon'ble Apex Court of India reported in **AIR 2010 SC Kashi Math Samsthan** wherein it has been made it very clear that in order to obtain an order of injunction the party who seeks for grant of such injunction has to prove that he/ she has made out a prima facie case to go for trial, the balance of convenience is in his/ her.

16. In the light of principles of law laid down in the above cited decisions and the arguments canvassed by the learned counsel for the appellants and respondents and documents produced by both the parties at this stage without going into the merits of the case and conducting the mini trial the court has to considered the fact i.e. prima facie case made out by the appellants for grant of temporary injunction based on the documents produced by the plaintiffs.

17. On careful perusal of the documents produced by the appellants before trial court it appears that, in order to substantiate the claim of the appellants regarding acquisition of suit property through the alleged partition dated 25.10.1976, except the mutation register extract vide M.R.No. 4/2000-2001 have not produced any other RTC's to show that based on the said mutation entry the RTC of the suit property has been continued in the names of plaintiffs. It is also seen from the endorsement dated 05.05.2025 issued by the Tahasildar Grade -II Chikkaballapura where in it is stated that, the said mutation

register No. 04/2000-01 has been decade and accordingly they are not in a position to issue the same. The date of production of the said MR by the plaintiffs before the trial court and date of application filed by the respondents before the office of the Tahasildar for issuance of copy of the same is taken into consideration. It appears that, the respondents have approached the Tahasildar within span of 7-8 months but the authority have issued the endorsement stating that, document regarding MR No. 4/2000-01 is decade and not available which may prima facie establishes regarding non existence of the said document in the revenue authorities since the document which was issued to the plaintiffs cannot be made available to the respondents immediate after lapse of 7-8 months. In addition to that the alleged partition deed produced by the plaintiffs dated 25.10.1976 said to have been entered into the children of Muniyappa and Thammanna but on the basis of the said partition deed, the revenue entries in respect of the suit property have not been transferred in the name of father of the plaintiffs till 11.11.2000, on the other hand the entries in respect of suit property measuring 1-33 guntas including the suit property have been standing in the name of Smt. Narayanamma and Akkayamma, the inordinate delay in getting the revenue entries of the suit property in the name of father of the plaintiff between 25.10.1976 and 11.11.2000 for about 24 years have not been properly explained by the appellants which creates a serious doubt regarding the allotment of the suit property in favour of the father of the plaintiffs.

18. The mutation register extract i.e, M.R.No. 4/2000-01 though it is mutated on the basis of partition deed on 11.11.2000, inspite of such mutation entries RTC of the property has been continued in the name of Smt. Narayanamma and Smt. Akkayamma since the year 1982-83 to till the year 2023-24 and thereafter in the names of their respective legal heirs jointly under MR.No. H 34/2023-24 till alienating the suit property in favour of the defeated No.9 under sale deed dated 09.07.2024, despite of it neither father of the plaintiffs nor the plaintiff have challenged the said revenue entries stood in the names of Smt. Akkayamma and Narayanamma, having not challenged the said entries during the life time of father of the plaintiffs, the plaintiffs now cannot permitted to contend that, as per the partition deed the mutation was effected in the name of their father.

19. It is also important here to mention that, partition deed dated 25.10.1976 which was produced by the plaintiffs where in the recitals are not discloses regarding bifurcation of the property allotted to the father of the plaintiff on one side and Smt. Narayanamma and Smt. Akkayamma on other side which clearly discloses that there is no bifurcation of the suit survey number land under the said alleged partition deed. It is also seen from the records that plaintiffs have produced partition deed dated 25.10.1976 along with the suit and also one which was produced along with the memo dated 10.02.2026 before the trial court if both deeds are perused which discloses that, in the partition deed which was produced along with

suit where in Late. Byranna i.e., father of the plaintiffs has been allotted with 1-10 guntas and Smt. Narayanamma and Akkayamma have been allotted with 0-23 guntas in Sy. No. 176 but in the partition deed which was produced along with memo where in it has been shown that, entire extent of 1-33 guntas in Sy.No. 176 has been allotted to the share of Smt. Narayanamma and Smt. Akkayamma jointly and there is no bifurcation of the said land, hence, at this stage priam facie it appears that, there has been over written/alterd in extent of the land as 0-23 guntas in the place of entire extent of 1-33 guntas in Sy.No. 176. Therefore at this stage it is very difficult to accept the contention of the plaintiffs that, the suit property has been fallen to the share of their father in the alleged partition.

20. It is also seen from the documents produced by the both parties that, admittedly suit property is an agricultural land and revenue entries like RTC and mutation establishes possession over the landed property, if the same is taken into consideration the revenue records are standing in the name of Smt. Narayanamm and Smt. Akkayamma since the year 1982-83 to till the year 2023-24 and thereafter the names of legal heirs of said Narayanamma and Akkayamma mutated under MR No. H 34/23-24 and subsequently they sold the said land in favour of the defendant No.9 under registered sale deed dated 09.07.2024 and based on the same his name has been got mutated in MR. No. T 15/2024-25 such being the case, at this stage the claim of the plaintiff that since date of partition they are in possession of the suit property is

appears to be plaintiffs have not made out a prima facie case and balance of convenience is also not in their favour.

21. Hence, the trial court after considering the pleadings and documents produced by both parties has come to a conclusion that, the suit property does not belong to the plaintiff and the plaintiffs have made a rewriting in the partition deed in respect of suit property and the plaintiffs have failed to prove that suit property belongs to them and plaintiffs have failed to prove that they are having right over the suit property and have failed to made out a prima facie case in their favour. In such circumstances the impugned order passed by the trial court is in accordance with principles of law and by following the guidelines while considering the application filed for grant of Temporary injunction, therefore, this Court do not find any illegality, perversity or arbitrariness in the impugned order passed by the trial court and for the above said reasons, the appellants have not made out any grounds for interference of this Court in the impugned order, accordingly, this point is answered in the **NEGATIVE**.

22. **Point No.2**: In the light of the discussions made and answer to the above point, it is just and proper to pass the following:

ORDER

Appeal filed by the appellants U/o 43 Rule 1
(r) is hereby **DISMISSED**.

The impugned order dated 26.2.2026 passed
on IA No.I filed under Order 39 Rule 1 and 2 R/w.

Sec.151 of CPC in O.S.No.144/2025 by the learned
II- Sr. Civil judge and JMFC, at Chikkaballapura is
hereby **CONFIRMED**.

No order as to costs.

Send copy of this judgment to the trial court
forthwith.

(Dictated to the Stenographer directly on computer, the same is
corrected, signed and then pronounced by me on this the 31st day of
August 2026.)

(SIDDANNA B. HANDRAL)
III-Addl. District and Sessions Judge,
Chikkaballapura.