

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
AT BANAHATTI.

DATED THIS THE 21st DAY OF APRIL 2023.

Present: Sri.Kirankumar. D.Wadigeri, *B.A.L.,L.L.B.*,
Senior Civil Judge & JMFC
Banahatti.

O.S.No.335/2022.

Plaintiffs:

1. Smt. Gangawwa W/o: Kallappa Koti,
Age: 60 years, Occ: Household work,
R/o: Hosur, Tq: Jamkhandi,
Dist: Bagalkot.
2. Smt. Nimbewwa W/o: Maruti Hallur,
Age: 56 years, Occ: Household work,
R/o: Venkatapur, Tq: Gokak,
Dist: Belagavi.
3. Smt. Amrutewwa W/o: Hanamant Singadi,
Age: 49 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
4. Smt. Kannawwa W/o: Ishwar Jambagi,
Age: 44 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
5. Yallappa S/o: Bhirappa Mungoji,
Age: 37 years, Occ: Agriculture,
R/o: Konnur, Tq: Jamkhandi,
Dist: Bagalkot.

(By pleader **Sri. V.B.K.**)

-Versus -**Defendants:**

1. Smt. Gourawwa W/o: Rayappa Hirekodi,
Age: 52 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
2. Smt. Shanawwa W/o: Singadeppa
Jiddimani, Age: 38 years, Occ: Household
work, R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
3. Tukkappa S/o: Laxman Hallur,
Age: 30 years, Occ: Agriculture,
R/o: Venkatapur, Tq: Gokak,
Dist: Belagavi.
4. Halappa S/o: Laxman Hallur,
Age: 30 years, Occ: Agriculture,
R/o: Venkatapur, Tq: Gokak,
Dist: Belagavi.
5. Smt. Lakkawwa W/o: Kareppa Hosamani,
Age: 28 years, Occ: Agriculture,
R/o: Venkatapur, Tq: Gokak,
Dist: Belagavi.
6. Ramappa S/o: Kareppa Jiddimani,
Age: 46 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
7. Malappa S/o: Kareppa Jiddimani,
Age: 36 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
8. Smt. Yallawwa W/o: Siddappa Abbagundi,
Age: 44 years, Occ: Household work,
R/o: Katageri, Tq: Athani, Dist: Belagavi.

9. Smt. Satyawwa W/o: Shrikant Jadagi,
Age: 42 years, Occ: Household work,
R/o: Banhatti, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
10. Smt. Lakkawwa W/o: Gosheer Jambagi,
Age: 40 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
11. Laxman S/o: Bhirappa Jiddimani,
Age: 48 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
12. Pradani S/o: Bhirappa Jiddimani,
Age: 46 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
13. Somaray S/o: Singadeppa Jiddimani,
Age: 51 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
14. Smt. Tangewwa W/o: Siddappa Jiddimani,
Age: 52 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
15. Parasappa @ Prabhu S/o: Siddappa
Jiddimani, Age: 44 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
16. Singadeppa S/o: Siddappa Jiddimani,
Age: 40 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.

17. Smt. Rayawwa W/o: Vittal Dalawai,
Age: 36 years, Occ: Agriculture,
R/o: Nidagundi, Tq: Raibag,
Dist: Belagavi.
18. Bharamappa S/o: Shingadeppa Jiddimani,
Age: 50 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
19. Yankawwa W/o: Singadeppa Jarali,
Age: 52 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
20. Smt. Mayawwa W/o: Sadashiv Jarali,
Age: 54 years, Occ: Household work,
R/o: Chimmad, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
21. Jakkappa S/o: Manigeneppa Jiddimani,
Age: 54 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
22. Ningappa S/o: Manigeneppa Jiddimani,
Age: 50 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
23. Tukkappa S/o: Manigeneppa Jiddimani,
Age: 52 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
24. Sadashiv S/o: Manigeneppa Jiddimani,
Age: 48 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.

25. Yallappa S/o: Manigeneppa Jiddimani,
Age: 40 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
26. Smt. Muttawwa W/o: Mayappa Hirekodi,
Age: 50 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
27. Smt. Gangawwa W/o: Rayappa Jiddimani,
Age: 75 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
28. Smt. Bhagawwa W/o: Rayappa Jiddimani,
Age: 73 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
29. Kadappa S/o: Rayappa Jiddimani,
Age: 52 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
30. Smt. Parasappa S/o: Rayappa Jiddimani,
Age: 44 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
31. Bhirappa S/o: Rayappa Jiddimani,
Age: 42 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
32. Siddappa S/o: Rayappa Jiddimani,
Age: 41 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.

33. Mahadev S/o: Rayappa Jiddimani,
Age: 38 years, Occ: Agriculture,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.
34. Smt. Kenchawwa W/o: Ramesh
Vaghamodi, Age: 40 years, Occ:
Household work, R/o: Baligeri,
Tq: Athani, Dist: Belagavi.
35. Smt. Lakkawwa W/o: Kallappa
Vaghamodi, Age: 39 years, Occ:
Household work, R/o: Baligeri,
Tq: Athani, Dist: Belagavi.
36. Smt. Kannawwa W/o: Siddappa Hallur,
Age: 105 years, Occ: Household work,
R/o: Baligeri, Tq: Athani, Dist: Belagavi.
37. Smt. Nagawwa W/o: Mahadev Yallatti,
Age: 74 years, Occ: Household work,
R/o: Jagadal, Tq: Rabkavi-Banhatti,
Dist: Bagalkot.

(By pleader **Sri. S.M.F.** for D.6 to
D.21 and D.1, D.2, D.4, D.5, D.22,
D.24, D.25, D.27, D.29 to D.33
placed Ex.-parte)

IA.No.I

Applicant :

Smt. Gangawwa S/o: Kallappa Koti.

-versus-

Opponents :

Smt. Gourawwa W/o: Rayappa Hirekodi
and Others.

ORDER

- 1.** This plaintiffs have filed this application under order 39 rule 1 & 2 of CPC to restrain the defendant No.6 to 13 and 21 to 33 from alienating the suit properties or creating charge over the suit properties till disposal of the suit.
- 2.** The plaintiff No.1 in her affidavit filed along with this application has stated that, they have filed the suit for partition and separate possession in the suit properties against the defendants, in which no partition took place. Now the defendant No.6 to 13 and 21 to 33 in order to defeat their rights of share in the suit properties are trying to alienate the same in favour of third persons. Therefore, they have made out prima-facie case and balance of convenience also lies in their favour. If the application is not allowed they will face much hardship and loss. Hence, they prayed to allow IA.No.I.
- 3.** The defendant No.6 to 20 have filed their written statement and same is adopted as objections to this application. They have contended that, the genealogy produced by the plaintiffs is incomplete and they have not impleaded other family members in the suit and hence the suit is bad for

non-joinder of necessary parties. Further it is contended that, during the lifetime of propositus Ningappa, there was an oral partition in between them and hence the suit properties are not the joint family properties and there is no existence of joint family. Further they have denied the entire case of the plaintiffs.

4. Heard both sides on IA.No.I.

5. Then the following points arise for consideration of this court are as under:-

1. Whether the plaintiffs have established prima-facie case?
2. Whether the balance of convenience lies in favour of plaintiffs?
3. Whether the plaintiffs will face loss and injury, if the application is rejected?
4. What order?

6. The findings of this court on the above points are as under:

Point No.1 - In the Affirmative.

Point No.2 - In the Affirmative.

Point No.3 - In the Affirmative.

**Point No.4 - As per final order,
for the following:**

REASONS

7. Point No.1 to 3: All points are inter-connected with each other. Hence, in order to avoid repetition of facts and for the sake of convenience, all these points are taken together for consideration at one stretch.

8. The plaintiffs have produced RTC extracts of the suit lands which are standing in the names of defendant No.6 to 13 and 21 to 33. The plaintiffs have specifically pleaded that, without their knowledge and consent those defendants have managed to enter their names in the revenue records of the suit lands and with an intention to defeat their legitimate share in the suit properties, they are trying to alienate the same. As far as the contentions raised by the defendants, it requires full fledged trial. However, the defendants have taken contention that, other family members are not the parties to the suit and hence the suit is bad for non-joinder of necessary parties but it also requires full fledged trial. If the defendants are allowed to alienate the suit properties it will lead to multiplicity of the proceedings. Further, it is not specifically contended by the defendants that already there was a partition by meets and bounds in between all the sons of

propositus Ningappa and thereafter in between them. Therefore, in order to adjudicate the matter, it all requires trial. So, at this stage, the plaintiffs have made out prima-facie case to grant the temporary injunction order to restrain the defendants from alienating the suit properties. Hence, my findings to **point No.1 to 3 are in the Affirmative.**

21. Point No.4: In view of the reasons and findings given to point No.1 to 3, the following is made-

ORDER

IA.No.I filed by the plaintiffs under order 39 rule 1 & 2 of CPC is hereby allowed.

Accordingly, the defendant No.6 to 13 and 21 to 33 are hereby restrained from alienating or creating the charge over the suit properties till disposal of the suit.

(Dictated to the Stenographer, transcribed and computerized by her, corrected and then pronounced by me in the open court on 21st day of April 2023).

(Kirankumar D.Wadigeri)
Senior Civil Judge & JMFC.,
Banahatti.