

KACB310060032024



**IN THE COURT OF II ADDITIONAL CIVIL JUDGE & J.M.F.C
AT CHINTAMANI**

**PRESENT: SUHAS K.C, B.A., LL.B (HONS.), LL.M.,
II Addl. Civil Judge & JMFC,
Chintamani.**

DATED THIS 31st DAY OF JULY 2026

OS No.391/2024

PLAINTIFFS :

- 1. Sri.Srinivasappa**
S/o.Late Pappayya,
Aged 65 years.
- 2. Sri.P.Venkateshappa,**
S/o.Late Pappayya,
Aged 60 years,
Plaintiff No.1 and 2 are
R/o.Mylapura Village,
Chinnasandra Post,
Kaiwara Hobli,
Chintamani Taluk -563125
Chikkaballapura District.

V/s

DEFENDANTS :

- 1. Sri.Munegowda**
S/o.Late Munisamigowda
Aged about 52 years
- 2. Sri.M.Muniraju,**
S/o.Munegowda,

Aged about 25 years,

3. Sri.Ashwathnarayana Reddy

S/o.Late Narayana Gowda

Aged about 60 years,

4. Sri.Anjaneya Reddy

S/o.Late Narayana Gowda,

Aged about 55 years,

5. Sri.Narayana Reddy

S/o.Late Narayana Gowda,

Aged about 50 years,

6. Sri.Subbareddy,

S/o.Late Narayana Gowda,

Aged about 48 years,

Defendant no.1 to 6 are

R/o.Mylapura Village,

Chinnasandra Post,

Kaiwara Hobli,

Chintamani Taluk-563125

Chikkaballapura District.

RANK OF THE PARTIES IN I.A.No.1

APPLICANTS

(plaintiffs)

:

Sri.Srinivasappa and another

(Rep.by Sri.G.M.1, Advocate)

V/s

OPPONENTS

(defendants)

:

Sri.Munegowda and others.

(D1 and D2 exparte)

(Rep.by Sri.T.N.S, Advocate for D3 to D6)

1.	Provision under which Application is Filed	Under Order 39 rule 1 & 2 R/w Section 151 of CPC
2.	Relief Sought For	Temporary Injunction
3.	The Date on Which Application is Filed	18 th December 2024
4.	Number of the Application	1
5.	The Date on Which Objection is Filed by Opponent	1 st April 2025
6.	The Date On which Orders was Passed	31 st July 2026

(SUHAS K.C)

II Addl. Civil Judge & JMFC.,
Chintamani.

ORDER ON IA NO.I FILED UNDER ORDER 39 RULE 1 AND 2
READ WITH SECTION 151 OF CPC

The Plaintiffs have filed the present Interlocutory Application under Order 39 rule 1 and 2 Read with Section 151 of CPC Seeking an order of temporary Injunction Restraining the defendant no.1 to 6, their agents, representatives, attornyes or anybody through them from alienating, selling, transferring, encumbering, mortgaging the plaint schedule properties in favour of third parties or creating charge over the said properties in any manner pending disposal of the suit.

Description of the property

1. The land measuring 0-12½ guntas out of 0-25 guntas, assessed at Rs.0-93 paise in Sy.No.33/19 of Nagadenahalli

Village, Kaiwara Hobli, Chintamani Taluk, Chikkaballapur District
bounded by

East by : Land of Ashwath Reddy
West by : Sarkari Gundu Thopu
North by : Land of Srinivasappa
South by : Land of Nagarajappa

2. The landed property totally measuring 0-39 guntas including the land measuring 0-19 ½ guntas stands in the name of Sri.Narayana Gowda, assessed at Rs.01-45 paise in Sy.No.33/4 of Nagadenahalli village, Kaiwara Hobli, Chintamani Taluk, Chikkaballapura District bounded by:

East by : Land of Ramachandrappa
West by : Sarkari kaluve
North by : Land of Naremma
South by : Land of narayana Gowda

2. In the affidavit filed in support of the application, the plaintiff no.2 has averred that, the Plaintiffs contend that they are the absolute owners of Item Nos.1 and 2 of the plaint schedule properties. According to them, the properties originally belonged to their father Late Pappayya, who acquired the same under a registered partition deed dated 04.08.1958. It is alleged that Defendant No.1, by impersonating the deceased parents of the Plaintiffs, executed a fraudulent registered sale deed dated

15.03.2021 in respect of Item No.1 and thereafter Defendant No.2 obtained a registered gift deed dated 15.07.2024. It is further alleged that in respect of Item No.2, the father of Defendants No.3 to 6 illegally secured revenue entries and that Defendants No.3 to 6 are attempting to mutate the records and alienate the property to third parties. Apprehending creation of third-party rights and consequent irreparable loss, the Plaintiffs have sought the present order of temporary injunction. Hence, he prays that the application be allowed.

3. After service of summons, the defendant has appeared before the court through his counsel, the defendant no.1 and 2 has not filed written statement or objection and further defendant no.3 to 6 have filed their written statement and filed memo to treat the written statement as objection to IA No.1.

4. The defendant no.3 to 6 contends that the suit in respect of Item No.2 is false, frivolous and not maintainable. They contend that one Gangappa was the propositus of the family and under the registered partition deed dated 04.08.1958 the branch of Byyanna was allotted the "A" schedule properties while the father of the Plaintiffs obtained "B" schedule properties. According to them, Item No.2 of the plaint schedule actually fell to the share of the "A" schedule holders, but due to an inadvertent mistake the extent of 0-39 guntas was shown in the "B" schedule of the registered partition deed. It is further pleaded that the mistake

was subsequently noticed and an oral partition was effected in the year 1960 followed by a memorandum dated 06.09.1960 acknowledging the mistake.

5. Defendants No.3 to 6 have further contended that after the death of Hanumanthappa, his son Venkateshappa sold Item No.2 under a registered sale deed dated 01.03.1979 in favour of the father of Defendants No.3 to 6, who was put in lawful possession. Ever since the date of purchase, their father and thereafter Defendants No.3 to 6 have been in continuous, peaceful and exclusive possession and enjoyment of the property by cultivating the land, raising coconut trees and mango garden and paying revenue to the Government. They have further contended that the Plaintiffs themselves excluded Item No.2 while effecting partition among their own family members under the registered partition deed dated 11.03.2002, thereby acknowledging that the property never belonged to their branch. On these grounds, they have sought dismissal of the suit as against them.

6. Thereafter, on 30.07.2026 , Defendants No.3 to 6 have filed a Memo stating that they are concerned only with Item No.2 of the plaint schedule property and voluntarily undertake that they will not alienate, transfer, mortgage, encumber or create any third-party interest over Item No.2 during the pendency of the suit.

7. Heard the learned counsel appearing for the Plaintiffs and the learned counsel appearing for Defendants No.3 to 6. Perused the pleadings, documents, objections, written statement and the Memo filed by Defendants No.3 to 6.

8. Based upon the averments under the application this court entertains the following points for consideration:

1. Whether Plaintiff demonstrates prima-facie case in his favour?
2. Whether balance of convenience lies in the favour of Plaintiff?
3. Whether plaintiff will be put to an irreparable loss if an order of temporary injunction is not granted?
4. What order?

9. Heard the plaintiff counsel on the application and perused the materials brought to the this court. Having done so, this court proceeds to answers the above points in the following:

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

10. Point No.1 to 3: These points are taken up together for common discussion to avoid repetition, as they involve common question of facts and law, and are therefore interrelated. The Plaintiffs have sought an order of temporary injunction restraining the Defendants from alienating the suit schedule properties pending disposal of the suit. Defendants No.1 and 2, though served with notice, have not filed objections to the application. Defendants No.3 to 6 have filed written statement and memo to treat written statement as objections disputing the claim of the Plaintiffs in respect of Item No.2 of the plaint schedule property and asserting independent title and possession based on the registered partition deed dated 04.08.1958, memorandum of oral partition dated 06.09.1960 and registered sale deed dated 01.03.1979.

11. Insofar as Item No.1 of the plaint schedule property is concerned, the Plaintiffs have placed reference upon the registered partition deed and have specifically alleged that Defendant No.1 has executed fraudulent documents in respect of the said property. As Defendants No.1 and 2 have not filed any written statement and objection, the averments made in the affidavit filed in support of the application remain unrebutted. At this interlocutory stage, the material placed on record is sufficient to hold that the Plaintiffs have made out a prima facie case. If alienation is permitted pending disposal of the suit, third-party

rights are likely to be created, resulting in multiplicity of proceedings and irreparable injury. The balance of convenience also lies in favour of preserving the property till disposal of the suit.

12. In respect of Item No.2 of the plaint schedule property, Defendants No.3 to 6 have seriously disputed the title of the Plaintiffs and have set up an independent claim over the property. The rival contentions involve disputed questions of fact and title, which require adjudication on the basis of oral and documentary evidence. However, during the pendency of the application, Defendants No.3 to 6 have filed a Memo dated 30.07.2026 undertaking that they will not alienate, transfer, mortgage, encumber or create any third-party interest in respect of Item No.2 of the plaint schedule property till disposal of the suit. Since the said undertaking protects the subject matter of the suit. In view of undertaking by the defendant no.3 to 6, point no.1 to 3 answered in the **Affirmative.**

13. POINT No.4: For the detailed discussions engaged above, this Court proceeds to pass the following.

ORDER

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

Defendants are hereby restrained from alienating the suit schedule properties till the disposal of the suit.

(computerized by me, revised, corrected by me and then pronounced in the open Court, on this the 31st day of July 2026)

sd/-

(SUHAS K.C)

II Addl. Civil Judge & JMFC.,
Chintamani.