

**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND
JMFC., AT GOWRIBIDANUR**

Dated this 6th day of August, 2026

:: PRESENT::

Smt. PUSHPA .D

B.Com, L.L.B.,

**Addl. Civil Judge & J.M.F.C,
Gowribidanur**

ORIGINAL SUIT NO.268/2025

- PLAINTIFF : 1.** Sri. Krishnappa
S/o. Late Venkataravanappa,
Aged about 54 years,
- 2.** Sri. Ramanjinappa
S/o Late. Venkataravanappa,
Aged about 50 years

Both are R/at.
M. Gundlahalli Village,
Minakanagurki Panchayath,
Manchenahalli Hobli & Taluk,
Chikkaballapur District.

**(Represented by Sri. M.R.L.,
Advocate)**

// Versus //

- DEFENDANTS : 1.** Sri. Ashwathappa,
S/o. Late Venkataravanappa,
Aged about 65 years,
- 2.** Smt. Jayamma
W/o. Ashwathappa,
Aged about 55 years,

- 3.** Sri. Manjunatha
S/o. Ashwathappa,
Aged about 38 years,

All are R/at M. Gundalahalli village
Minakanagurki panchayath,
Manchenahalli Hobli & Taluk,
Chikkaballapur District.

**(Defendant Nos.1 to 3
Represented by Sri. V.T.,
Advocate;)**

ORDER ON I.A No.I FILED BY PLAINTIFFS

UNDER ORDER XXXIX RULE 1 & 2 OF C.P.C.

The plaintiffs have filed this I.A under Order XXXIX Rule 1 & 2 read with Section 151 of C.P.C. praying for ad-interim of ex-parte temporary injunction against the defendants not to alienate or create documents till pending disposal of the suit.

2. The sum and substance of the plaintiff's case are :-

It has stated that the suit schedule property is the self-acquired property of the plaintiffs and the 1st defendant. The plaintiffs and the 1st defendant are the children of late Venkataravanappa. That the suit schedule property was jointly purchased by them out of their own earnings, though the sale

deed dated 21.07.1997 in the name of the 1st defendant, being the eldest member of the family. That the plaintiffs had paid the sale consideration to one Gangaiah, S/o Nyathappa, the original owner of the property, and an agreement of sale dated 15.12.1986 was executed in the name of Chikkavenkataravanappa @ Venkataravanappa. Thereafter, all the brothers jointly enjoyed the property. Subsequently, they effected a partition under a registered partition deed dated 28.09.2006, whereby the property was divided into 'A', 'B' and 'C' schedules. Under the said partition, 'A' schedule was allotted to the 1st defendant, 'B' schedule to the 1st plaintiff, and 'C' schedule to the 2nd plaintiff. Since then, each of them has been in separate possession and enjoyment of the respective portions as their self-acquired property. It is further alleged that the 1st defendant, by fraudulently executed a sale deed dated 17.03.2022 in favour of Munirajappa in respect of the suit schedule property. Thereafter, the 1st defendant repurchased the property under a sale deed dated 02.07.2022 and subsequently executed a registered gift deed dated 04.02.2025 in favour of defendant Nos.2 and 3. That the defendants are making attempts to alienate the suit schedule property in favour of third parties. Hence, the present suit.

3. The plaintiff has sworn to an accompanying affidavit reiterating the entire averments of the plaint and stating that the plaintiffs will be put to great loss, hardship and injury of the application is not allowed but no hardship or injury will be caused to the other side, if the application is allowed. Therefore, the plaintiffs have prayed that this Court may be pleased to grant ad-interim order of temporary injunction against the defendant.

4. In pursuance of the suit summons, the defendants 1 to 3 have appeared before the Court through their counsel filed written statement. They also files a memo for adopting the written statement as objections to IA.

5. The defendants have contended that the suit schedule property is the self-acquired property of the 1st defendant. It is further contended that the 1st defendant, being the absolute owner, has executed a registered gift deed in favour of defendant Nos.2 and 3, accordingly revenue records standing in the names of defendant Nos.2 and 3. Further, the alleged partition deed dated 28.09.2006 is a created and fabricated

document and that the 1st defendant has never executed or signed the said partition deed. That the alleged agreement of sale dated 15.12.1986 is a fabricated and concocted one. That the plaintiffs have neither right, title, nor interest in the suit schedule property and are not entitled to claim any share therein. On these grounds, the defendants have prayed for dismissal of the application.

6. Heard both sides at length.

7. On considering the plaint, I.A No.1, its accompanying affidavit and the written statement cum objections, the points that arise for consideration are as under:

POINTS FOR CONSIDERATION

1. *Whether the plaintiff /applicant has made out a prima-facie case for the grant of temporary injunction?*
2. *Whether the balance of convenience/inconvenience lies in favor of the plaintiff/applicant?*
3. *Whether irreparable loss and injury would be caused to the*

plaintiff/applicant, if the temporary injunction is refused?

4. *What order?*

8. My answer to 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:**

:: R E A S O N S ::

9. **Point Nos.1 to 3**:- Any of the observation made herein does not affect the merits of the case and parties at liberty to prove their respective contentions. These observations have been made only for the purpose of disposal of this application. These points are taken together for common discussions and to avoid the repetition of facts. The whole facts of the interim application is already narrated at the inception of this order. Therefore, repetition of the same avoided here.

10. It is well established and settled position of law that the following propositions are to be established in order to invoke the jurisdiction of the Court to grant an interlocutory order of injunction under Order XXXIX Rule 1 and 2 of C.P.C. (1) prima facie case, (2) balance of convenience/inconvenience and (3) irreparable loss or injury which cannot be compensated in terms of money, if injunction is refused. The ingredients are to be established by the party who seeks injunction in his favor. The grant of injunction is a discretionary relief and the party should come to Court with clean hands and place all the materials before the Court so that the Court will be satisfied about the prima facie case in favor of the party seeking the order.

11. To substantiate the case of the plaintiff, the plaintiff has produced Copy of the certified copy of the hand written RTCs, original agreement of sale dated 15.12.1986, certified copy of the sale deed dated 21.07.1997. copy of mutation register, original unregistered partition deeds dated 28.09.2006, copy of mutation register, copy of sale

deed dated 02.07.2022, copy of gift deed dated 04.02.2025 and computerised RTC

12. Per contra, the defendant have produced documents such copy of partition deed dated 28.09.2006

13. Upon perusal of the documents produced by the plaintiffs, it is seen that the suit schedule property originally stood in the name of Gangaiah. The plaintiffs have produced a copy of the agreement of sale dated 15.12.1986, alleged to have been executed between Gangaiah and Chikkavenkataravanappa, the father of the plaintiffs and the 1st defendant. The plaintiffs have also produced a copy of the registered sale deed dated 21.07.1997, under which the suit schedule property was conveyed in the name of the 1st defendant. Further, on perusal of the partition deed dated 28.09.2006, it is prima facie seen that the suit schedule property is stated to have been partitioned among the plaintiffs and the 1st defendant, with separate portions allotted to each of them. Per contra, the defendants have contended that the suit schedule property is the self-acquired property of the 1st defendant, who purchased the same from one Gangaiah under a registered sale deed dated

21.07.1997. As such, he is the absolute owner of the property, the 1st defendant executed a registered gift deed in favour of defendant Nos.2 and 3. That the alleged partition deed dated 28.09.2006 and the agreement of sale dated 15.12.1986 relied upon by the plaintiffs are fabricated and created documents. That he has not executed his signature on the alleged partition deed. These issues involve disputed question of facts and cannot be adjudicated at this preliminary stage, it requires full-fledged trial. It is, however, pertinent to note that the burden of proof lies upon the defendants to substantiate these claims by leading cogent and acceptable evidence during the course of trial. At this stage, these contentions cannot be conclusively determined and shall have to be adjudicated upon after appreciation of evidence.

14. The primary purpose for granting interim relief is the preservation of property in this suit till legal rights and conflicting claims of the parties before the court are adjudicated, in other words the object of making an order regarding interim relief is to evolve a workable formula to the extent called for by the demands of situation, keeping in

mind the pros and cons of the matter and striking a delicate balance between two conflicting interest that is injury prejudices likely to be caused to the defendants.

15. At this juncture, it is to be kept in mind that the Court cannot conduct a mini-trial at this stage by appreciating the documents produced by the parties, in detail. All that the Court must see is whether the party seeking the relief of temporary injunction has made out a prima-facie case. A prima-facie case does not mean that the plaintiff will succeed in the suit in all probability but it merely means that the plaintiff has made out sufficient grounds for the case to go for trial.

16. The documents produced by the plaintiff establishes a prima facie case in favor of the plaintiff. Upon considering the pleadings and documents produced by the plaintiff, at this preliminary stage, the plaintiff has made out a prima-facie and whenever there is an arguable case, it can be said that the plaintiff has made out a prima-facie case.

17. The Court has to see whether the applicant will sustain such injuries or loss which cannot possibly and adequately remedied by way of damage and the said damage would be inadequate in case of the success of the applicants. As far as the question of balance of convenience/inconvenience is concerned, the Court has to see inconvenience which may be caused to either of the parties and see whether it is necessary or proper to maintain status quo till the adjudication of dispute finally decided. The ingredients are to be established by the party who seek injunction in his favor. The grant of injunction is a discretionary relief and the parties who claims such a relief should come to the Court with clean hands and place all the materials before the Court so that Court will satisfy about the case in favor of the parties seeking the order.

18. As the R.T.C of the suit schedule properties stands in the name of the defendants, the possibility of the defendant alienating the suit schedule properties to third parties cannot be ruled out. If the defendants are not restrained from alienating the suit schedule properties at this stage, then the

plaintiffs would be constrained to implead all the future purchasers of the suit schedule properties and the suit would take years to reach a conclusion. On the other hand, if the defendants are restrained from alienating the suit schedule properties to third parties till the disposal of this suit, there appears to be no harm or injury that would be caused to the defendants and they are at liberty to contest the case and demolish the case of the plaintiff and if the suit is ultimately dismissed, the defendants will be at liberty to deal with the suit schedule property as per their wishes. It is a well-settled principle of law that no property can be alienated during the pendency of a suit, as such an act would attract the bar under Section 52 of the Transfer of Property Act, dealing with the doctrine of lis pendens. The object of this provision is to prevent one party from defeating the rights of the other during litigation by transferring the disputed property to a third party, thereby rendering the court's final decision ineffective. The doctrine serves to preserve the subject matter of the suit, prevent multiplicity of proceedings, and protect the rights of all parties involved in the litigation. Therefore,

this Court is of the opinion that the balance of convenience/inconvenience lies in favor of the plaintiff and not in favor of the defendants, as the plaintiff would be constrained to file multiple suits or resort to other procedures under law if the suit schedule properties are alienated during the pendency of this suit as before and this Court is of the opinion that if the I.A is not allowed, the plaintiffs would be put to irreparable loss and injury. Hence, I have answered

Points No.1 to 3 in the Affirmative.

19. **Point No.4 :-** In view of my findings on Points No.1 to 3, the plaintiff is entitled to the relief of temporary injunction, as sought for. Hence, this court proceed to pass the following:

ORDER

(I) I.A filed by the plaintiff under Order XXXIX Rules 1 & 2 r/w Section 151 of C.P.C is hereby allowed.

(II) The defendants and their agents, attorneys, or anybody claiming under them are hereby restrained from

alienating the the suit schedule
properties till disposal of the suit.

(III) No order as to costs.

(Typed by me, corrected and then pronounced by me in the Open
Court on this 06th August, 2026)

(PUSHPA D.)
ADDL. CIVIL JUDGE & J.M.F.C
GOWRIBIDANUR