

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT
CHALLAKERE**

:- P R E S E N T :-

Smt. Reshma Kalakappa Goni, BA.,LLM.,

Senior Civil Judge & JMFC
Challakere.

Dated this the 8th day of April 2024

O.S.No.73/2023

PLAINTIFFS:- Sri. K. Basavaraja & Others.

//Versus//

DEFENDANTS:- Smt. Shivagangamma @ M. Gangamma
and others.

I.A.No.1

Applicants/Plaintiffs:- Sri. K. Basavaraja S/o Late Kenchappa,
Aged about 59 years, Agriculturist,
R/o Doddachelluru Village, Now R/o
Pillekerenahally Village, Chitradurga
Taluk & District & Others.

(By Sri D. Jayaseela Reddy, Advocate.)

//Versus//

Opponents/Defendants:-Smt. Shivagangamma @ M.
Gangamma W/o T. Mahalingappa,
Aged about 47 years, R/o
Doddachelluru Village,
Parashurampura Hobli, Challakere
Taluk, Chitradurga District & Others.

(By Sri U. Thippeswamy, Advocate.)

ORDER ON I.A.NO.1

The plaintiffs filed I.A.No.1 U/o 39 Rule 1 & 2 R/w Sec.151 of CPC,

praying to grant temporary injunction order against the defendants, their men, agents, etc from alienate or create third party interest over the suit schedule properties by way of sale, gift, lease, mortgage etc pending disposal of the suit.

2. In support of IA.No.1 along with affidavit of plaintiff no.3 contended that, they have filed the suit against the defendants for the relief of partition and separate possession of their half share in suit properties. They and defendants are relatives with each other. The suit schedule properties were originally belonged to one Shanthappa, who is no other than their Great grandfather. After the death of Shanthappa, his three sons were succeeded the estate of deceased Shanthappa on inheritance basis and subsequently the 2nd son of Shanthappa namely Ramalingappa died in jointness leaving behind his two daughters and the suit schedule properties. Thereafter the 1st son of Shanthappa namely Doddalingappa and 3rd son Bhyranna and daughters of Ramalingappa were in joint possession and enjoyment of suit schedule properties. And subsequently Doddalingappa and Bhyranna colluding with each other without knowing the daughters of Ramalingappa namely Kalyanamma and Eswamma got up a registered partition deed on 28-01-1969. Subsequently the said Doddalingappa and Bhyranna died issue-less. After the death of Doddalingappa and Bhyranna again the daughters of Ramalingappa succeeded the suit schedule properties on

inheritance basis, accordingly they accrued the valid right over the schedule properties. Both the daughters of Ramalingappa died in jointness and moreover neither the daughters of Ramalingappa nor they and defendants divisioned the suit schedule properties till today. In fact they and defendants are in joint and constructive possession and enjoyment of suit schedule properties. The defendants have no exclusive right, title, interest or possession in or over the suit schedule properties. But in the life time of husband of defendant No.1 colluding with the defendant No.5 and 6 instituted a suit before the Addl. Civil Judge (Jr.Dvn) at Challakere against one Ravindra S/o Nidugappa, in O.S.No.151/2008 by claiming that they are the owners of suit properties and they are only the legal heirs of deceased Bhyranna and also asserted that Kalyanamma i.e., mother of plaintiffs had no issues. In that suit Ravindra S/o Nidugappa had not filed the written statement, only on the basis of plaintiffs' evidence, suit had been decreed. After the death of Doddalingappa and Bhyranna, the daughters of Ramalingappa namely Kalyanamma and Eshwaramma, i.e., his mother and mother-in-law of defendant No.1 and mother of defendant No.5 and 6 being the legal heirs were succeeded the suit properties. But the husband of defendant No.1 and defendant No.5 & 6 herein were knowing fully well, purposefully in order to knock of the share of plaintiff's mother in suit schedule properties had not made as a party to the suit in O.S No.151/2008 .

In fact the mother of plaintiff's was also a necessary party in that suit, but the husband of defendant No.1 and defendant No.5 and 6 are colluding with each other, behind the back of his mother obtained the Decree in respect of suit schedule properties. The Judgment and Decree dated:18-04-2009 passed in O.S.No.151/2008 is a collusive one and the same is not binding on them or his mother's right over the suit properties. In mean while one Ravindra S/o Nidumandappa @ Nidugappa had filed a suit in O.S.No.29/2015 on the file of Senior Civil Judge at Challakere in respect of same suit schedule properties against his mother and defendant No.1 to 6. In pending suit O.S.No.29/2015 his mother also died and they were brought on record as LRs of defendant No.1. Thereafter this Hon'ble court had dismissed the suit in O.S.No.29/2015 on full fledged trial and this court held that the suit schedule properties are succeeded by the two daughters of Ramalingappa i.e., Kalyanamma and Eshwaramma, thereby the Decree obtained by the husband of defendant No.1 and defendant No.5 and 6 in O.S.No.151/2008 is not binding on the legitimate right of Kalyanamma i.e., his mother. Thereby they being class-1 legal heirs of Kalyanamma have got half share in suit schedule properties. The defendants have also well knowledge about the findings given the by this Hon'ble court. But the defendants after disposal of the case filed in O.S.No.29/2015 pronounced in village, the suit schedule properties are exclusively belonged to them and

they are ready to sale the same. The defendants in order to defraud and deprive their share in suit schedule properties, the defendants are too hurryingly trying to alienate the suit schedule properties. If the defendants are allowed to alienate the suit schedule properties, definitely they will be put to injustice and they loses their right over the suit properties. After knowing the illegal activities of defendants, they have questioned the defendants and also demanded their half share in suit properties. But the defendants on the strength of revenue documents standing in their names straight away refused to allot their share in suit properties. In this regard any amount of advice went in vain. Without any alternative they have filed suit for the relief of partition and separate possession of their half share in suit schedule properties. Hence, they have got prima facie case and balance of convenience lies in their favour. If the temporary injunction on IA no.1 is not granted they will be put to irreparable loss and injury. On the other hand no harm or loss will cause to the defendants. Hence prayed to allow the application.

3. On the other hand defendants filed objection to I.A.No.1 contended that the application filed by the plaintiffs is not tenable in law and it is filed with malafide intention. The contents of plaint and accompanying affidavit are false and baseless. It is further contended that, after the death of Shanthappa, subsequently his 2nd son Ramalingappa was also died leaving behind his daughters

Kalyanamma and Eswaramma and Doddalingappa. Thereafter the 1st son of Shanthappa viz., Doddalingappa and 3rd son Bhyranna had entered into registered partition deed on 28-01-2019 with knowledge of Kalyanamma and Eswaramma. Therefore, the Bhyramma had taken his share of properties and came out of joint family. Thereafter the husband of Eswaramma viz., N. Thippeswamy had purchased properties came to the share of Doddalingappa. But due to disputes in the family of Kalyanamma and Eswaramma, a registered partition deed on 10-07-1970 had entered into between them where Doddalingappa who was living with family of Eswaramma had also consented to said deed of partition. Kalyanamma had got "A" Schedule properties, Eswaramma had got " B " schedule properties, in the said partition deed and also sold certain properties come to her share to one N. Thippeswamy on 24-08-1972. Thereafter Eswaramma had filed a suit in O.S.No.562/1990 which subsequently numbered as O.S.No.50/1994 against Bhyramma and Kalyanamma for partition and possession of her legitimate share in properties which was amicably settled between them as result Bhyranna and his wife Bhramaramba who were issue-less living with Eswaramma and her sons and the properties comes to share of Bhyranna under registered partition deed dated: 28-01-1969 were also jointly enjoying by the Bhyranna with the family of Eswaramma and her sons. Subsequently Bhyranna and his wife Bhramaramba died leaving

behind Eswaramma and her sons as their only legal heirs. Thereafter one Ravindra S/o Nidugappa had on the basis concocted documents viz., power of attorney and Will alleged to be executed by Bhyranna managed to meanwhile Eswaramma was also died, then her sons filed a suit against transferred in his name. And they also filed a suit in O.S.No.151/2008 before Addl.Civil Judge (Jr.Dvn) at Challakere against Ravindra S/o Nidugappa, where suit had decreed against Ravindra S/o Nidugappa. Thereafter Ravindra S/o Nidugappa had challenged the judgment and decree passed in O.S.No.151/2008 before appellate courts in Mis.Petition No.2/2010, M.A.No.7/2021 and Cr.R.P No.214/2012 which were all dismissed. Subsequently the mother of plaintiff filed a suit in O.S.No.106/2013 against defendants before the Civil Judge and J.M.F.C at Challakere for partition and separate possession which was withdrawn by her as she already taken her share in a registered partition deed in 10-07-1970. Thereafter once again colluded with mother of plaintiff, Ravindra S/o Nidugappa filed a suit in O.S.No.29/2015 before the Senior Civil Judge, Challakere which was also dismissed on 25-01-2023. And there also plaintiff suit filed against the defendant in O.S.No.65/2015 pending before Addl. Civil Judge and J.M.F.C at Challakere filed by plaintiff's against N. Thippeswamy (husband of Eswaramma) and also filed IA No.7 under order 1 rule 10 R / W 151 of C.P.C to implead defendants which was also dismissed on

30.05.2023. As per the partition and Decree passed in O.S.No.151/2008 judgment dated 18-04-2009, before Addl.Civil Judge (Jr.Dvn) against Ravindra S/o Nidumadappa. The defendants are in lawful owner in possession and enjoyment of suit schedule property without disturbing anybody till today. The plaintiffs are in no manner title, possession and enjoyment of suit schedule property at any point of time. Hence the plaintiffs have never claim any shares over the suit schedule property against the defendants. When the plaintiffs are never in lawful possession and enjoyment of suit schedule properties at any manner. Hence in view of that the plaintiffs are not claimed temporary injunction against the defendants in respect of suit schedule properties. The plaintiff claim and contentions are not based on any proper documents. The suit is misconceived for the relief of partition and separate possession of plaintiffs half share in suit schedule properties. The present suit filed by the plaintiff is false, frivolous. The suit is brought by the plaintiff against these defendants to cause hardship, inconvenience and give harassment to the defendants in one or other pretexts. The balance of convenience is in favour of defendants. If the application is allowed the defendants will be put to irreparable injury and hardship. Hence prayed to reject the application.

4. I have perused the application and objection filed by the parties, the points that arises for my consideration as under.

POINTS

- 1) Whether the plaintiffs have made out prima-facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiffs?
- 3) Whether the plaintiffs will be put to irreparable loss and injury if an order of temporary injunction is not granted?
- 4) What order ?

5. On perusal of documents available on record, I.A. affidavit and objection, I answer 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

6. **Point No.1 to 3:** As these points are inter connected, they are taken up together for common discussion to avoid repetition of facts.

7. The plaintiffs has filed this suit against the defendants for the relief of partition and separate possession in respect of suit property and also filed I.A.No.1 U/o 39 Rule 1 & 2 R/w Sec.151 of CPC, prayed to grant temporary injunction order restraining the defendants, their men, agents etc from alienate or create third party interest over the suit schedule properties by way of sale, gift, lease, mortgage etc till the disposal of the suit.

8. It is specific contention of the plaintiffs that, they have filed

the suit against the defendants for the relief of partition and separate possession of their half share in suit properties. Plaintiffs and defendants are relatives with each other. The suit schedule properties were originally belonged to one Shanthappa, who is no other than their Great grandfather. After the death of Shanthappa, his three sons were succeeded the estate of deceased Shanthappa on inheritance basis and subsequently the 2nd son of Shanthappa namely Ramalingappa died in jointness leaving behind his two daughters and the suit schedule properties. Thereafter the 1st son of Shanthappa namely Doddalingappa and 3rd son Bhyranna and daughters of Ramalingappa were in joint possession and enjoyment of suit schedule properties. Subsequently Doddalingappa and Bhyranna colluding with each other without knowledging the daughters of Ramalingappa namely Kalyanamma and Eswaramma got up a registered partition deed on 28-01-1969. Subsequently the said Doddalingappa and Bhyranna died issue-less. After the death of Doddalingappa and Bhyranna again the daughters of Ramalingappa succeeded the suit schedule properties on inheritance basis, accordingly plaintiffs accrued the valid right over the schedule properties. Both the daughters of Ramalingappa died in jointness and moreover neither the daughters of Ramalingappa nor plaintiffs and defendants divisioned the suit schedule properties till today. In fact plaintiffs and defendants are in joint and constructive possession and

enjoyment of suit schedule properties. The defendants have no exclusive right, title, interest or possession in or over the suit schedule properties. But in the life time of husband of defendant No.1 colluding with the defendant No.5 and 6 instituted a suit before the Addl. Civil Judge (Jr.Dvn) at Challakere against one Ravindra S/o Nidugappa, in O.S.No.151/2008 by claiming that they are the owners of suit properties and they are only the legal heirs of deceased Bhyranna and also asserted that Kalyanamma i.e., mother of plaintiffs had no issues. In that suit Ravindra S/o Nidugappa had not filed the written statement, only on the basis of plaintiffs' evidence, suit had been decreed. After the death of Doddalingappa and Bhyranna, the daughters of Ramalingappa namely Kalyanamma and Eshwaramma, i.e., his mother and mother-in-law of defendant No.1 and mother of defendant No.5 and 6 being the legal heirs were succeeded the suit properties. But in that suit the husband of defendant No.1 and defendant No.5 & 6, plaintiff's mother in suit schedule properties had not made as a party to the suit in O.S No.151/2008. In fact the mother of plaintiff's was also a necessary party in that suit, but the husband of defendant No.1 and defendant No.5 and 6 are colluding with each other, behind the back of mother of plaintiffs obtained the Decree in respect of suit schedule properties. The Judgment and Decree dated:18-04-2009 passed in O.S.No.151/2008 is a collusive one and the same is not binding on

them or his mother's right over the suit properties. In mean while one Ravindra S/o Nidumandappa @ Nidugappa had filed a suit in O.S.No.29/2015 on the file of Senior Civil Judge at Challakere in respect of same suit schedule properties against paintiffs mother and defendant No.1 to 6. In pending suit O.S.No.29/2015 his mother also died and they were brought on record as LRs of defendant No.1. Thereafter this Hon'ble court had dismissed the suit in O.S.No.29/2015 on full fledged trial and this court held that the suit schedule properties are succeeded by the two daughters of Ramalingappa i.e., Kalyanamma and Eshwaramma, thereby the Decree obtained by the husband of defendant No.1 and defendant No.5 and 6 in O.S.No.151/2008 is not binding on the legitimate right of Kalyanamma i.e., his mother. Thereby they being class-1 legal heirs of Kalyanamma have got half share in suit schedule properties. The defendants have also well knowledge about the findings given the by this Hon'ble court. But the defendants after disposal of the case filed in O.S.No.29/2015 pronounced in village, the suit schedule properties are exclusively belonged to them and they are ready to sale the same. The defendants in order to defraud and deprive their share in suit schedule properties, the defendants are too hurryingly trying to alienate the suit schedule properties. If the defendants are allowed to alienate the suit schedule properties, definitely they will be put to injustice and they looses their right over the suit properties.

After knowing the illegal activities of defendants, they have questioned the defendants and also demanded their half share in suit properties. But the defendants on the strength of revenue documents standing in their names straight away refused to allot their share in suit properties. In this regard any amount of advice went in vain. Without any alternative they have filed suit for the relief of partition and separate possession of their half share in suit schedule properties. Hence, they have got prima facie case and balance of convenience lies in their favour.

9. On the other hand, the defendants denied the contents of affidavit averments of IA and specifically contended that, after the death of Shanthappa, subsequently his 2nd son Ramalingappa was also died leaving behind his daughters Kalyanamma and Eswaramma and Doddalingappa. Thereafter the 1st son of Shanthappa viz., Doddalingappa and 3rd son Bhyranna had entered into registered partition deed on 28-01-1969 with knowledge of Kalyanamma and Eswaramma. Therefore, the Bhyramma had taken his share of properties and came out of joint family. Thereafter the husband of Eswaramma viz., N. Thippeswamy had purchased properties came to the share of Doddalingappa. But due to disputes in the family of Kalyanamma and Eswaramma, a registered partition deed on 10-07-1970 had entered into between them where Doddalingappa who was living with family of Eswaramma had also

consented to said deed of partition. Kalyanamma had got "A" Schedule properties, Eswaramma had got " B " schedule properties, in the said partition deed and also sold certain properties come to her share to one N. Thippeswamy on 24-08-1972. Thereafter Eswaramma had filed a suit in O.S.No.562/1990 which subsequently numbered as O.S.No.50/1994 against Bhyramma and Kalyanamma for partition and possession of her legitimate share in properties which was amicably settled between them as result Bhyranna and his wife Bhramaramba who were issue-less living with Eswaramma and her sons and the properties comes to share of Bhyranna under registered partition deed dated: 28-01-1969 were also jointly enjoying by the Bhyranna with the family of Eswaramma and her sons. Subsequently Bhyranna and his wife Bhramaramba died leaving behind Eswaramma and her sons as their only legal heirs. Thereafter one Ravindra S/o Nidugappa had on the basis concocted documents viz., power of attorney and Will alleged to be executed by Bhyranna managed to meanwhile Eswaramma was also died, then her sons filed a suit against transferred in his name. And they also filed a suit in O.S.No.151/2008 before Addl.Civil Judge (Jr.Dvn) at Challakere against Ravindra S/o Nidugappa, where suit had decreed against Ravindra S/o Nidugappa. Thereafter Ravindra S/o Nidugappa had challenged the judgment and decree passed in O.S.No.151/2008 before appellate courts in Mis.Petition No.2/2010, M.A.No.7/2021

and Cr.R.P No.214/2012 which were all dismissed. Subsequently the mother of plaintiff filed a suit in O.S.No.106/2013 against defendants before the Civil Judge and J.M.F.C at Challakere for partition and separate possession which was withdrawn by her as she already taken her share in a registered partition deed in 10-07-1970. Thereafter once again colluded with mother of plaintiff, Ravindra S/o Nidugappa filed a suit in O.S.No.29/2015 before the Senior Civil Judge, Challakere which was also dismissed on 25-01-2023. And there also plaintiff suit filed against the defendant in is O.S.No.65/2015 pending before Addl. Civil Judge and J.M.F.C at Challakere filed by plaintiff's against N. Thippeswamy (husband of Eswaramma) and also filed IA No.7 under order 1 rule 10 R / W 151 of C.P.C to implead defendants which was also dismissed on 30.05.2023. As per the partition and Decree passed in O.S.No.151/2008 judgment dated 18-04-2009, before Addl.Civil Judge (Jr.Dvn) against Ravindra S/o Nidumadappa. The defendants are in lawful owner in possession and enjoyment of suit schedule property without disturbing anybody till today. The plaintiffs are in no manner title, possession and enjoyment of suit schedule property at any point of time. Hence the plaintiffs have never claim any shares over the suit schedule property against the defendants. When the plaintiffs are never in lawful possession and enjoyment of suit schedule properties at any manner. Hence in view of that the

plaintiffs are not claimed temporary injunction against the defendants in respect of suit schedule properties. The plaintiff claim and contentions are not based on any proper documents. The suit is brought by the plaintiff against the defendants to cause hardship, inconvenience and give harassment to the defendants in one or other pretexts. The balance of convenience is in favour of defendants. If the application is allowed the defendants will be put to irreparable injury and hardship. Hence prayed to reject the application.

10. I have perused the application filed by the plaintiffs and objection filed by the defendants and also perused the documents produced by the plaintiff in respect of suit schedule properties. The plaintiffs have filed the suit against the defendants for the relief of partition and separate possession of $\frac{1}{2}$ share in suit schedule properties, by holding that the Judgment and decree dated:18.04.2009 passed in O.S.No.151/2008 on the file of Addl. Civil Judge and JMFC at Challakere is not binding on the plaintiffs and to division the Item no.1 to 3 of suit schedule properties through the revenue authorities and to division the item no.4 of suit property through a court commissioner. The present I.A.No.1 filed by the plaintiffs for grant of temporary injunction order restraining the defendants, their men, agents etc from alienate or create third party interest over the suit schedule properties by way of sale, gift, lease, mortgage etc till the disposal of the suit. In support of this, the

plaintiffs have produced the documents i.e., RTC of Sy.No.89/1, RTC of Sy.No.129/3, RTC of Sy.No.133 of Doddachelluru village for the year 2022-23 in respect of suit schedule properties. The plaintiffs also produced Tax Paid Receipt pertaining to Item no.4 of suit property, certified copy of Judgment and Decree dated:18.04.2009 passed by the Addl. Civil Judge and JMFC, Challakere in O.S.No.151/2008 and certified copy of Judgment and Decree dated:25.01.2023 passed in O.S.No.29/2015 on the file of Senior Civil Judge and JMFC, Challakere. On the other hand defendants have produced documents i.e., certified copy of registered Partition deed dated:28.01.1969 entered into between Doddalingappa and Bhyranna, Certified copy of Sale deed dated:24.08.1972 executed by Kalyanamma in favour of N. Thippeswamy. Certified copy of Settlement Memo dated:27.10.1997 in O.S.No.50/1994 before the Court of Munsif at Challakere, certified copy of Judgment and Decree in O.S.No.151/2008 passed by Civil Judge (Jr.Dvn.) at Challakere, certified copy of plaint and written statement in O.S.No.106/2013 against defendants before the Civil Judge (Jr.Dvn.), Challakere, certified copy of order sheet and Judgment and decree in O.S.No.29/2015 passed by Senior Civil Judge and Orders on I.A.No.7 in O.S.No.65/2015 before Addl. Civil Judge and JMFC, Challakere, certified copy of order sheet and Judgment and decree in O.S.No.65/2015 passed by Senior Civil Judge and JMFC, Challakere

and Orders on I.A.No.7 in O.S.No.65/2015 before Addl. Civil Judge and JMFC., Challakere, Certified copy of RTC of land bearing Sy.No.129/3-2, certified copy of Mutation extract in MR No.11/2009-10, certified copy of RTC of land bearing Sy.No.129/3-2, Certified copy of Mutation extract in MR No.11/2009-10, Certified copy of RTC of land bearing Sy.No.133/2, Certified copy of RTC of land bearing Sy.No.89/2 and Two Tax Paid Receipts of house property bearing Khatha No.109.

11. The above said documents produced by the plaintiffs at this stage prima-facie shows that, relationship of the plaintiffs and defendants are not in dispute. It is specific contention of the plaintiffs that, the suit schedule properties originally belonged to one Shanthappa, who is no other than their Great grandfather. After the death of Shanthappa, his three sons were succeeded the estate of deceased Shanthappa on inheritance basis and subsequently the 2nd son of Shanthappa namely Ramalingappa died in jointness leaving behind his two daughters and the suit schedule properties. Thereafter the 1st son of Shanthappa namely Doddalingappa and 3rd son Bhyranna and daughters of Ramalingappa were in joint possession and enjoyment of suit schedule properties. Subsequently Doddalingappa and Bhyranna colluding with each other without knowledging the daughters of Ramalingappa namely Kalyanamma and Eswaramma got up a registered partition deed on 28-01-1969.

Subsequently the said Doddalingappa and Bhyranna died issue-less. After the death of Doddalingappa and Bhyranna again the daughters of Ramalingappa succeeded the suit schedule properties on inheritance basis, accordingly plaintiffs accrued the valid right over the schedule properties. Both the daughters of Ramalingappa died in jointness and moreover neither the daughters of Ramalingappa nor plaintiffs and defendants divisioned the suit schedule properties till today. In fact plaintiffs and defendants are in joint and constructive possession and enjoyment of suit schedule properties.

12. But the defendants in their objection specifically contended that, as per the Judgment and Decree passed in O.S.No.151/2008 dated 18-04-2009, before Addl.Civil Judge (Jr.Dvn) against Ravindra S/o Nidumadappa. The defendants are in lawful owner in possession and enjoyment of suit schedule property without disturbing anybody till today. The plaintiffs are in no manner title, possession and enjoyment of suit schedule property at any point of time, but on perusal of Judgment and decree passed in O.S.151/2008 reveals that mother of the plaintiffs in that suit, the husband of defendant no.1 and defendant no.5 and 6, plaintiffs mother is not made as party to that suit. The said decree not binding on the plaintiffs mother. Hence the plaintiffs mother have never claim any shares over the suit schedule property against the defendants. The defendants submits that when the plaintiffs are never in lawful possession and enjoyment

of suit schedule properties at any manner. Hence in view of that the plaintiffs are not entitle temporary injunction against the defendants in respect of suit schedule properties. The plaintiffs claim and contentions are not based on any proper documents. But said aspects are to be consider only after full-fledged trial.

13. At this stage material on records clearly prima-facie shows that the plaintiffs and defendants are the legal heirs of propositor deceased Shanthappa and the suit schedule properties are the joint family properties of plaintiffs and defendants. Hence, plaintiffs have made out prima-facie case and balance of convenience lies in their favour. If suit schedule properties alienated by the defendants standing in their names plaintiffs will be put to irreparable loss. If defendants are restrained from alienating the suit schedule properties no hardship and injury will be caused to them. Hence, to avoid the multiplicity of the proceedings and in the interest of justice and equity. It is necessary to restrain the defendants from alienating the suit schedule properties. Accordingly, I answer **Point No.1 to 3 in the Affirmative.**

14. Point No.4 : In view of the above findings and reasons, I proceed to pass the following :

ORDER

I.A.No.1 filed by the plaintiffs U/o 39 Rule 1 and 2 R/w 151 of CPC is hereby allowed.

The defendants are hereby temporarily restrained from alienating the suit schedule properties by way of sale, gift, lease, mortgage etc and other any transactions till the disposal of the suit.

The cost will follow the event of the suit.

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the open court on this the 8th day of April 2024)

**(Smt. Reshma Kalakappa Goni)
Senior Civil Judge & JMFC,
Challakere.**