

KACD510009522025



Presented on : 27-03-2025  
Registered on : 27-03-2025  
I.A.No.I Filed on : 26-03-2025  
I.A.No.I decided on : 26-11-2025  
Duration : 8 months

**IN THE COURT OF PRL. CIVIL JUDGE AND JMFC AT  
HOSADURGA, CHITRADURGA**

**Presided Over by PRASANNA KUMAR C., B.A.L.,LL.B.,**  
Prl.Civil Judge & JMFC,  
Hosadurga.

**Dated this the 26<sup>th</sup> day of November, 2025**

**O.S.No./195/2025**

**Between:**

Sri.Neelappa @ Reddi Neelappa  
S/o Late Kariyappa,

**..Plaintiff**

**(Shri Erabasappa, Advocate for plaintiff)**

**And:**

Smt.Bhagyamma  
D/o Thimmappa and 6 others

**...Defendants**

**(Sri.H.Lakshminarayana Advocate for Defendant No.1,3 and 4)**  
**(Defendant No.2-Ex-parte)**

**PARTIES TO THE APPLICATION IA No.I**

Sri.Neelappa @ Reddi Neelappa  
S/o Late Kariyappa,

**..... Plaintiff/Applicant**

**V/s**

Smt.Bhagyamma  
D/o Thimmappa and 6 others

**...Defendants/Opponents**

Provisions of Law of I.A.No.I	Under Order 39 Rule 1 and 2 of Civil Procedure Code
Relief sought for on I.A.No.I	Temporary Injunction to restrain the defendant No.1 and 4 from alienating the suit schedule properties
Date of Application	26.03.2025
Number of the Application	I
Date of objection filed by defendants	24.09.2025
Date of order	26.11.2025

**ORDERS ON IA No.I**

This application is filed by the plaintiff along with main suit under Order XXXIX Rules 1 and 2 of Civil Procedure Code, seeking for the order of temporary injunction to restrain the defendant No.1 and 4 from alienating the suit schedule properties, pending disposal of the suit. The suit schedule properties are described as under:

1. Land bearing Re.Sy.No.40/3A measuring 2 acres 22 guntas situated at Mathodu Village, Mathodu Hobli, Hosadurga Taluk.
2. Land bearing Re.Sy.No.38/2 measuring 38 guntas situated at Arehalli Village, Mathodu Hobli, Hosadurga Taluk.

2. In the affidavit filed in support of the application as well as in the plaint the plaintiff has contended that one Sri.Kariyappa is father of plaintiff and grand-father of defendant No.1 to 3. The

plaintiff and defendant No.1 to 3 are the members of Hindu Undivided Joint Family Governed by Mithakshara School of law. The defendants are the daughters of Late Thimmanna who is brother of plaintiff. Both the plaintiff and defendant No.1 to 3 are in joint and constructive possession of the suit schedule properties. Originally the suit schedule properties were belonging to the father of plaintiff Sri.Kariyappa. During his lifetime he has enjoyed the same with his family members. After his death the revenue entries were mutated in the name of his wife Smt. Kariyamma(mother of plaintiff) through inheritance. The mother of plaintiff had died long back. After that the father of defendants had become kartha of the joint family consisting of plaintiff and defendants. The said bother of plaintiff by name Sri.Thimmanna during his lifetime had changed the khatah of the suit schedule properties in the name of defendant No.1 without the knowledge of plaintiff by colluding with revenue officials in the year 1990-2000. In spite of that the defendants have no independent, absolute and exclusive right over the suit schedule properties.

3. It is further contended by the plaintiff that his father Sri.Thimmanna has died on 07.09.2014. Thereafter, recently the defendant No.1 has created some documents in her name only in order to harass the plaintiff and by colluding with the other defendants and revenue officials have changed khatha of the suit schedule properties in the name of defendant No.1 by taking undue advantage of the strained relationship and also that the properties are standing in the name of defendant No.1. The

defendants have colluded together in order to deprive the right of plaintiff over the suit schedule properties. As such, the order of Tahasildar thereby denying the khatha of the suit schedule properties dated 18.08.1999 is not binding on the share of the plaintiff. Further the defendant No.1 has executed gift deed of item No.1 property in the name of defendant No.4 without the knowledge of plaintiff. The khatha of item No.1 of the suit schedule property is standing in the name of defendant No.4. Thereafter, the defendants are seriously trying to alienate the suit schedule properties without there being any exclusive right over the same. The plaintiff came to know that without her knowledge and consent the defendants by colluding with each other seriously trying to alienate the suit schedule properties to others. Hence, the plaintiff has approached the defendants seeking to effect partition in the suit schedule properties and put him in his rightful and legitimate share, for which, the defendants have flatly refused. Several panchayaths held in this behalf, but the defendants have refused for effecting partition. Hence, the plaintiff has filed this suit for partition and separate possession along with instant application seeking for order of temporary injunction as stated above.

4. On service of summons/notice the defendant No.2 remained absent. Hence, the defendant No.2 placed Ex-parte. The defendant No.1, 3 and 4 have entered appearance through their common counsel. The defendant No.1 and 4 have filed their common written statement, which is adopted by defendant No.3 by filing a memo. Further another memo is filed adopting the

written statement of defendant No.1 and 4 as objections to IA No.1.

5. At the out set, the defendants have not disputed the relationship of the parties, but the defendants have denied that the plaintiff and father of defendants were the members of Hindu Undivided Joint Family as false. It is also denied by the defendant No.1, 3 and 4 that the item No.1 of the suit schedule property bearing Sy.No.40/A is measuring 2 acres 22 guntas. It is contended that the father of plaintiff had sold the said property through registered sale deed in favour of one Sri.K.Kadavaradappa S/o K.Kenchappa on 06.07.1969 for valuable consideration. The said K.Kadavaradappa again sold the said property in favour of Sri.Holiyappa S/o Guddadappa through registered sale deed dated 12.03.1973. The said Sri.Holiyappa had 2 sons, who died leaving their estate and legal heirs. The said Holiyappa had 2 sons by name Sri.Murthappa, who is also dead leaving behind his legal heirs Sri.Sushilamma and children by name Punith and Chethan. The second son by name Sri.Mahanthasha is died by leaving behind his wife and children. All these persons are not made as parties to the present suit. Further the said Sri.Kadavaradappa has transferred the said property in favour of one Sri.Kariyamma W/o Kariyappa. Thereafter by family settlement the said property was transferred in favour of Sri.Thimmappa S/o Kariyappa (father of defendants). Accordingly, the khatha was mutated in the name of Sri.Thimmappa S/o Kariyappa.

6. It is further contended by the defendant No.1, 3 and 4 that the daughter of Sri.Thimmanna by name Smt.Bhagyamma (defendant No.1) has divided the property on 20.08.2011. As such the entire property with respect to item No.1 has been allotted in the name of Smt.Bhagyamma (defendant No.1). Accordingly, she has executed the gift deed in favour of her daughter Smt. R.Manjula (Defendant No.4) on 13.03.2025. Accordingly, khatha was also entered in the name of defendant No.4.. As such, the defendant No.4 has become lawful owner and in possession of the said property. In respect of item No.2 of the suit schedule property bearing Sy.No.38/2 measuring 38 guntas is concerned, the same was settled between Sri.Thimmappa and his brother Sri.Neelappa (plaintiff). In the said settlement the property measuring total extent of 270 acres in Sy.No.1 of Galabenahalli Village of Madadakere Hobli was allotted under Besaya Sahakara Sanga and number of villagers have been cultivating the same by paying share to the Government. As such, the father of defendants Sri.Thimmappa was cultivating 6 acres without disturbance more than statutory period. As such, the both plaintiff and his brother Sri.Thimmanna have compromised as per the well wishers and elders in the locality. Wherein the said property of Galabenahalli Village to an extent of 6 acres was allotted to father of defendants Sri.Thimmappa. The khatha was also changed in the name of Sri.Thimmappa in which after compromise the plaintiff has given up his share in the said property. After death of said Sri.Thimmappa the said property was divided amongst his children. Accordingly, khatha was effected. Hence, the defendant No.1, 3 and 4 have sought for

dismissal of the suit as well as instant application.

7. Basing on the application, affidavit, objection statement, the following points would arise for consideration of this court.

**POINTS**

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

8. Heard arguments. On the basis of Application, affidavit, written statement adopted as objections to the application, pleadings and also all the materials available on record, answer of this court to the above points is as under:

- |             |  |
|-------------|--|
| Point No.1: | <b>In the Affirmative</b>                        |
| Point No.2: | <b>In the Affirmative</b>                        |
| Point No.3: | <b>In the Affirmative</b>                        |
| Point No.4: | <b>As per final order<br/>for the following:</b> |

**REASONS**

9. **Point No.1 to 3:** Since all these three points are interconnected and interlinked with each other, they are taken up together for discussion in order to avoid repetition of facts.

10. This suit is filed by the plaintiff against the defendants for the relief of declaration to declare that the suit schedule properties are the joint family properties of plaintiff and defendants; for partition and separate possession of plaintiff in the suit schedule properties; to declare that the order passed by the Tahasildar on 18.08.1999 is not binding on the right and share of the plaintiff; to declare that the registered gift deed dated 24.03.2025 executed by the defendant No.1 in favour of defendant No.4 is not binding on the plaintiff; for permanent injunction to restrain the defendant No.1 from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule properties.

11. It is the case of the plaintiff that himself and defendant No.1 to 3 are the members of Hindu Undivided Joint Family Governed by Mithakshara School of law. The defendants are the daughters of Late Thimmanna who is brother of plaintiff. Both the plaintiff and defendant No.1 to 3 are in joint and constructive possession of the suit schedule properties. Originally the suit schedule properties were belonging to the father of plaintiff Sri.Kariyappa. During his lifetime he has enjoyed the same with his family members. After his death the revenue entries were mutated in the name of his wife Smt. Kariyamma(mother of

plaintiff) through inheritance. The mother of plaintiff had died long back. After that the father of defendants had become kartha of the joint family consisting of plaintiff and defendants. The said bother of plaintiff by name Sri.Thimmanna during his lifetime had changed the khatah of the suit schedule properties in the name of defendant No.1 without the knowledge of plaintiff by colluding with revenue officials in the year 1990-2000. In spite of that the defendants have no independent, absolute and exclusive right over the suit schedule properties.

12. The plaintiff has produced at this stage of the suit the RTC extract of item No.1 of the suit schedule property bearing Sy.No.40/3A measuring 2 acres 23 guntas which is standing in the name of defendant No.1 for the year 2024-2025. The plaintiff has also produced RTC extract of item No.2 of the suit schedule property bearing Sy.No.38/2 measuring 38 gutnas which is also standing in the name of defendant No.1. The plaintiff has once again produced the RTC extract of item No.1 of the suit schedule property bearing Sy.No.40/3A which is standing in the name of defendant No.4 and the name of defendant No.4 is entered by virtue of gift deed executed by the defendant No.1 in favour of defendant No.4. The plaintiff has not produced any document at this point of time to show that the suit schedule properties were originally belonging to his father Sri.Kariyappa and it is not explained as to mode of acquisition of the suit schedule property by the father of plaintiff.

13. On the other hand the defendant No.1, 3 and 4 have contended that the father of plaintiff had sold the said property through registered sale deed in favour of one Sri.K.Kaduvaradappa S/o K.Kenchappa on 06.07.1969 for valuable consideration. The said K.Kaduvaradappa again sold the said property in favour of Sri.Holiyappa S/o Guddadappa through registered sale deed dated 12.03.1973. The said Sri.Holiyappa had 2 sons, who died leaving their estate and legal heirs. The said Holiyapa had 2 sons by name Sri.Murthappa, who is also dead leaving behind his legal heirs Sri.Sushilamma and children by name Punith and Chethan. The second son by name Sri.Mahanthesha is died by leaving behind his wife and children. All these persons are not made as parties to the present suit. Further the said Sri.Kaduvaradappa has transferred the said property in favour of one Sri.Kariyamma W/o Kariyappa. Thereafter by family settlement the said property was transferred in favour of Sri.Thimmappa S/o Kariyappa (father of defendants). Accordingly, the khatha was mutated in the name of Sri.Thimmappa S/o Kariyappa.

14. It is further contended by the defendant No.1, 3 and 4 that the daughter of Sri.Thimmanna by name Smt.Bhagyamma (defendant No.1) has divided the property on 20.08.2011. As such the entire property with respect to item No.1 has been allotted in the name of Smt.Bhagyamma (defendant No.1). Accordingly, she has executed the gift deed in favour of her daughter Smt. R.Manjula (Defendant No.4) on 13.03.2025. Accordingly, khatha was also entered in the name of defendant

No.4.. As such, the defendant No.4 has become lawful owner and in possession of the said property.

15. In order to establish the said fact prima facie, the defendants have not produced any document at this stage of the suit to believe their version. The plaintiff submitted that the suit schedule properties are in joint possession of the plaintiff and defendants. The defendants in order to show that the suit schedule item No.1 property was sold to K.Kadavaradappa and that item No.2 of the suit schedule property was settled between the plaintiff and his brother(father of defendants) has not produced any document. Therefore, prima facie at this stage of the suit this court has opined that suit schedule properties are joint family properties of both plaintiff and defendants as they appears to have inherited from the propositus Sri.Kariyappa. As such, the balance of convenience lies in favour of plaintiff. Therefore, in order to protect the right and interest of plaintiff over the suit schedule property, it is just and necessary to keep the suit schedule properties intact till disposal of the suit without there being any kind of alienation by the defendant No.1 and 4.

16. As such, if this court declines to grant the order of temporary injunction in favour of plaintiff, the defendant No.1 and 4 may proceed to dispose off the suit schedule properties and in which event the plaintiff would loose his legitimate right over the suit schedule properties. Despite the same leads to multiplicity of proceedings. The contention taken by the

defendants has to be ascertained after holding full-fledged trial. At this stage of the suit, the plaintiff has established that the suit schedule properties are in danger of being wasted or alienated by the defendant No.1 and 4. Hence, the plaintiff has made out the ingredients to be considered for grant of equitable relief of order of temporary injunction. Hence, the present application deserves to be allowed. Accordingly, this court answered Point Nos.1 to 3 in the **Affirmative**.

17. **Point No.4:** For the foregoing reasons and discussions made above, this court proceed to pass the following:

**:: ORDER ::**

- I.A.No.I filed by the Plaintiff Under Order 39 Rule 1 and 2 of Civil Procedure Code is hereby allowed.
- No order as to costs.
- The defendant No.1 and 4 or anybody claiming under them are restrained from alienating the suit schedule properties in any manner whatsoever till disposal of the suit.

*(Dictated to the stenographer, transcribed by her, transcription corrected by me and then pronounced in the open court, on this the 26<sup>th</sup> day of November 2025)*

**(Prasanna Kumar C.)  
Prl.Civil Judge & JMFC.,  
Hosadurga.**