



**IN THE COURT OF PRL. SENIOR CIVIL JUDGE, &
C.J.M., CHIKKAMAGALURU**

**Present : Smt. Kumari Sujatha.
B.com.L.L.B.,
Prl. Senior Civil Judge & CJM.,
Chikkamagaluru.**

OS. No.86/2024

Dated this the 07th day of March, 2026.

- Plaintiffs :**
- 1 Smt. B.R. Harini,
W/o. Sri Lokappa Gowda,
D/o. Late Sannaramegowda,
Aged about 73 years,
R/o Toranamavu Village,
Kuduvalli,
Chikkamagaluru Taluk and
District.
 - 2 Smt B.R. Yashodha,
W/o. Sri Srikante Gowda,
D/o. Late Sannaramegowda,
Aged about 70 years,
R/o. No.73, Basani Village,
Heggodlu,
Mudigere Taluk
Chikkamagaluru District.
 3. Sri B.R.Vanamala,
W/o. Sri S. Jagadish,
D/o. Late Sannaramegowda,
Aged about 65 years,
R/o. No.76, 3rd Cross,
17th Main, 2nd Block,
Koramangala, Bangalore.



Represented by their GPA Holder, Sri S. Jagadish, S/o. Sri S.Krishnamachari, Aged about 71 years, R/o. No.76, 3rd Cross, 17th Main, 2nd Block, Koramangala, Bangalore.

(In person)

-V/s

- Defendants :**
- 1 Smt Byamma,
W/o. Late Sannaramegowda,
Aged about 93 years,
R/o. Sateehalli Village,
Basankhan Gullanpet,
Alduru Hobli.
 - 2 Sri B.R.Parameshwara,
S/o. Late Sannaramegowda,
Aged about 75 years,
R/o.PruthviHouse,Erehalli
Road,Behind Dr. Pois
Compound, Chikkamagaluru.
 3. Sri B.R. Mohan,
S/o. Late Sannaramegowda,
Aged about 68 years,
R/o. Sateehalli Village, Alduru
Hobli, Basankhan, Gullanpet,
Chikkamagaluru Taluk and
District.
 4. Sri C.V.Thimmaiah,
S/o. Late C.V.Venkataramana
Setty,
Aged about 89 years,



5. Smt T. Aswathamma,
W/o. Mr. C.V.Thimmaiah,
Aged about 84 years,
Both are Residing at No.1415,
12th 'B' Cross, West of Chord
Road, Mahalakshmpuram,
Bangaluru.

**(D-1 Dead, D2 by Sri SHMK,
Advocate, D3 Ex-parte, D4 &
D5 by Sri HAT, Advocate)**

PARTIES TO I.A. No.XVII AND XVIII

Plaintiffs : Smt B.R.Harini and Others.
(Rep by their SPA Holder)

- V/s-

Defendants : Smt Byramma and Others

ORDER ON I.A. NO. No.XVII AND XVIII

The S.P.A.Holder of plaintiff has filed I.A.No.XVII under Section 151 of CPC with a prayer to appoint him as the sole Manager to all the properties described in schedule 'A', 'B' and 'E' properties of the Plaint and also to the lands in Sy.No.143/1 measuring 2 acres 10 guntas



and in Sy.No.143/2 measuring 2 acres 20 guntas situated at Satteehally Village of Chikkamagaluru Taluk till obtaining the final Decree in the Partition suit.

2. The S.P.A.Holder of the plaintiffs has also filed I.A.No.XVIII under Section 151 of CPC praying for stay against the defendant No.2 and 3 for dismembering the fully grown up trees and disposing the same for monetary gains.

3. Both these applications have been resisted by the Learned Counsel for defendant No.2 by filing his detailed objections with a prayer to dismiss both the applications.

4. Heard both sides. Perused I.As., Affidavits, Objections and the materials available on record.

5. Now the Point arises for the determination of this court are as under :

POINTS

- 1) Whether the SPA Holder of the plaintiffs has made out sufficient grounds to allow IA. No. XVII and**



XVIII filed under Section 151 of CPC?

2) Whether the SPA Holder of the plaintiffs has made out sufficient grounds to allow IA. No. XVIII filed under Section 151 of CPC?

3) What Order ?

6. My findings on the above Points are as under :

Point No. 1 : In the Negative

Point No. 2 : In the Negative

**Point No. 3 : As per the final Order,
for the following**

REASONS

7. **Point No. 1 and 2**:- Both these points are taken together for common discussion as they are interlinked with each other and to avoid repetition of facts.

9. The present Applications have been filed by the SPA Holder of the plaintiffs praying to appoint him as Sole Manager of Plaint 'A', 'B' and 'E' schedule properties and also to the Sy.No.143/1 and 143/2 of Sateehally Village of Chikkamagaluru Taluk till final Decree. Further



he has praying for stay against the defendant No.2 and 3 for dismembering the fully grown up trees and disposing the same for monetary gains.

8. These applications have been supported by an affidavit of the SPA Holder of the plaintiffs stating that he is the husband of plaintiff No.3 and she has share in the Plaint schedule properties. Further he stated that the plaintiff No.1 to 3 had authorized him through Special Power of Attorney to file necessary applications before necessary Courts in order to take necessary action as provided in law and to protect the properties which are in possession. Further he stated that the defendants in the O.S.No.86/2024 have divested their interest in the properties during the life time of late Sri.Sannaramegowda. Further he stated that defendant No.1 - Smt. Late Byamma and her late husband Sri. Sannaramegowda have not legally partitioned the properties under a registered Partition deed during their life time. The defendant No.2 and 3 have not made disclosures regarding the existence of movable



and immovable properties held in their name which were ancestral. The plaintiffs and defendants belonged to Hindu Undivided Joint Family. By partition deed dtd: 26.02.1951 Sannaramegowda got his share which was described as schedule 'A' property and later he added 7 more properties which is listed in schedule 'B' properties and schedule 'C' and 'D' properties were purchased and given into the names of defendant No.2 and 3 i.e., B.R.Parameshwara and B.R. Mohan by a registered Sale deeds respectively. Further he stated that 3rd son invested for his education and invested in purchase of sites and houses which are schedule 'E' properties. All the properties in the name of Sannaramegowda were mutated in the name of Byramma i.e., defendant No.1 including the properties of late B.R.Dilip Kumar on inheritance and succession base respectively. He further stated that the defendant No.2 and 3 got separated and living separately from joint family nucleus. After the death of Sannaramegowda, Smt. Byramma becomes the kartha of schedule 'A', 'B' and 'E' properties including Sy.No.143/1 and 143/2 in



her name. Byamma being old aged, illiterate and taken care by the plaintiff No.1 to 3. But, as kartha Byamma was a puppet in the hands of defendant No.2 and she was unaware of the misuses and misdeeds and frauds in the bank accounts. He further stated that defendant No.1 was died on 12.08.2024. As there is no kartha of the joint family properties to main the schedule 'A', 'B' and 'E' properties and lands in Sy.No.143/1 and 143/2 properties and affairs, the defendant No.2 and 3 engaged in illegal activity of managing the joint family properties and they dismembering the fully grown up and non grown up trees, destroying the coffee plantation and pepper plantation and disposing the same for monetary gains unauthorizedly. Therefore, it is essential to appoint him as a manager of both movable and immovable properties until the final Decree of partition. Further he has prayed for stay against the defendant No.2 and 3 and their agents and henchmen ensuring the materials and stocks left on and to protect the property of the plaintiffs. On these grounds, he has prayed to allow these applications.



9. On the other hand, the Learned Counsel for defendant No.2 has filed his detailed objections inter-alia contended that the applications filed by the plaintiffs through their Power of Attorney holder is not maintainable. Further he contended that the Power of Attorney Holder in the capacity of in agent to the plaintiffs have filed the present suit, wherein, he had sought for grant of stay against the defendants for dismembering the fully grown trees and disposing the same for monetary benefits, for which, the agent of the plaintiffs had not filed any documents. He further contended that the agent of the plaintiffs had already filed application for interim relief and the said application is pending for consideration. Hence, the application is not maintainable. Further he contended that the allegations made against defendant No.2 that he is trying to destroying the coffee plantations, pepper plantations by cutting and dismembering the fully grown up trees and the said allegations have been made with an intentions to prejudice the mind of the Court. Further he contended



that the coffee plantation requires shade looping and pruning of the branches and removing of the over grown trees which is an part of the coffee cultivation, without that, one cannot get good coffee crop and it is only an work to be implemented for good coffee cultivation and the agent of the plaintiffs without having a knowledge about the coffee cultivation nor he is owning any other coffee plantation of his own, on the ill advice of some of the persons who are inimical towards the defendant No.2 had instigated the agent of the plaintiffs to file the present application which cannot be considered. Further he contended that the plaintiff cannot be appointed as Sole manager to the properties shown in the Plaint schedule 'A' 'B' and 'E' and Sy.No.143/1 and 143/2. This suit is filed for the relief of Partition and Separate Possession of the properties and also for mesne profits. Hence, the present application cannot be maintainable. The power of attorney holder has falsely sworn to an affidavit. It is the definite case of the defendant No.2 that some of the properties shown in the Plaint schedule are his self-acquired properties over which the either the plaintiffs or anybody



having right over the same. Further he contended that no provision under the CPC to appoint a Sole Manager to maintain the properties since the matter has to be adjudicated with respect to the rights of the parties. Unless and until it is proved before the Court, the plaintiffs are entitled for share in the properties, till then the present application cannot be considered nor it can be entertained. On these grounds, the Learned Counsel has prayed to dismiss both the applications.

10. I have gone through the materials available on record.

It is the prayer of the SPA holder of the plaintiffs to appoint him as a Sole Manager of the Suit Schedule 'A', 'B' and 'E' properties and Sy.No.141/3 and 143/2 till the final decree. It is worth to note here that this suit is filed by the plaintiffs against the defendants for the relief of Partition and Separate Possession of their share in the suit schedule properties and also for the declaration. The plaintiffs had filed the present suit through the SPA Holder who is the



Applicant in the present applications who seeks present relief to appoint him as a sole manager of the suit schedule 'A', 'B' and 'E' properties and Sy.No.143/1 and 143/2 till the final Decree. It is worth is to note here that he is only the SPA Holder who represents the plaintiffs in this suit. It is important to note here that a Special Power of Attorney Holder acts as an agent for the principal i.e., the plaintiffs and he can file sign, and verify documents, but, he cannot gain personal ownership rights or rights superior to the other co-sharers. Further SPA Holder represents the interest of the principal only and not the entire suit property. Further it is very important to note here that this suit is yet to be tried and whether the suit schedule properties are the ancestral or joint family properties or self-acquired properties as contended by the plaintiffs and defendants is yet to be proved. The SPA holder cannot claim himself as the sole manager of the said properties. Hence, there is no ground to accept the contention of the SPA Holder and there is no grounds are made out to allow the I.A.No.XVII and XVIII. Accordingly, I answer point No.1 and 2 in the '**Negative**'.



11. **Point No.3** : As per my detailed discussion to Point No.1 and 2 as stated supra, and my answer to the above Point No.1 and 2 are '**in the Negative**', I proceed to pass the following:

ORDER

I.A. No. XVII and XVIII filed by the SPA Holder of the plaintiffs under Section 151 of CPC respectively are hereby dismissed.

No order as to costs.

(Dictated to the stenographer, computerized and Print-out taken by her, Script corrected, signed and then pronounced by me in the open Court on this day **07th day of March 2026**)

Sd/-

**(Smt. Kumari Sujatha)
Prl. Senior Civil Judge & CJM
Chikkamagaluru**