

KACM200001252015



**IN THE COURT OF SENIOR CIVIL JUDGE,**  
**AT: KADUR**

**Present:-** Sri. IRFAN.  
*B.A., LL.B.,*  
Senior Civil Judge & JMFC,  
Kadur, Chikkamagaluru District.

Dated: this the 25<sup>th</sup> day April – 2026.

**O.S.No.5/2015**

Plaintiffs:- Sri. Hanumanthappa & another.  
(By: Sri. M.O.J., Advocate)

V/s

Defendants:- Sri. Obalappa and others.

(Defendants No.1 by: Sri. H.N.S. & Sri. S.N.A.,  
Advocates).

(Defendants No.2 and 6 by: Sri. B.R., Advocate).

(Defendant No.3 by: Sri. M.S.L., Advocate).

(Defendants No.4, 5 & 8 - Exparte).

(Defendant No.7 by: Sri. K.R.S., Advocate).

(Defendant No.9 by: Sri. K.A., Advocate).

(Defendants No.10 and 11 by: Sri. H.N.S. Advocate).



**RANK OF THE PARTIES ON I.A.NO.31**

Applicants/

Defendants No.6(a) to 6(d): Sri. Venkatesh H.G. & others.

V/s

Opponents /

Plaintiffs : Sri. Hanumanthappa & another.

|            |                                                                         |                                                                                                                |
|------------|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| <i>i</i>   | <i>Provision under which the application is filed</i>                   | <i>U/S 151 of CPC.</i>                                                                                         |
| <i>ii</i>  | <i>Relief sought for</i>                                                | <i>Permit the applicant to file objections to IA No.2 filed by the plaintiffs, U/O 39 Rule 1 and 2 of CPC.</i> |
| <i>iii</i> | <i>The date on which the application is filed</i>                       | <i>17.03.2026.</i>                                                                                             |
| <i>iv</i>  | <i>Number of the application</i>                                        | <i>31</i>                                                                                                      |
| <i>v</i>   | <i>The date on which the objections are filed by different opponent</i> | <i>24.03.2026 by the plaintiffs.</i>                                                                           |
| <i>vi</i>  | <i>The date on which the orders were passed on the said application</i> | <i>25.04.2026.</i>                                                                                             |

*When the case is posted for additional evidence on additional issues if any or cross of PW-1, the defendants No.6(a) to 1(d) have filed this application.*

**ORDERS ON I.A.31**

The interim application has been filed by the defendants NO.6(a) to 6(d), U/S 151 of CPC seeking



leave of the court to permit them to file objections to IA No.2 filed by the plaintiffs, U/O 39 Rule 1 and 2 of CPC.

2. This application is accompanied by an affidavit filed by the defendant No.6(d), wherein, it is contended that initially this suit was filed against the 6<sup>th</sup> defendant and his brothers for the relief of partition and separate possession. After demise of 6<sup>th</sup> defendant – Govindappa, the applicants have come on record. This suit was initially filed only with respect to 10 items of the properties. The 6<sup>th</sup> defendant in his written statement has taken a specific contention that there is already a partition taken place and there is no existence of joint family amongst plaintiffs and defendants, but due to inadvertence, the original 6<sup>th</sup> defendant has not filed any objections to IA No.II. Subsequently, the plaintiffs by taking undue advantage of the exparte order passed by this court on IA No.II have illegally made out revenue entries regarding existence of stay order not only with respect to suit schedule item No.1 to 10 properties, but also have fraudulently included other items of suit schedule



properties. Therefore, in order to contest the IA No.II, the leave is sought by the applicants.

3. This application has been resisted by the plaintiffs, wherein, they have contended that the defendants remained silent for all these years and have now belatedly filed this application seeking leave of the court to file objections to IA No.II and same is not maintainable at this stage. On these grounds, sought to dismiss the application.

4. Heard on both sides.

5. The Points arise for my consideration is as follows;

1. Whether Whether the defendants No.6(a) to 6(d) made out grounds for granting leave to file objections on IA No.II?
2. What order?

6. My answer on the above points are as follows:-

Point No.1 - In the affirmative;

Point No.2 - As per final order for the following:-



## **REASONS**

7. **Point No.1:** This suit is for the relief of partition and separate possession, which was initially filed against the defendants No.1 to 6 with respect to suit schedule item No.1 to 10 properties. On a reference to the order-sheet dated 07.02.2015, it is noticed that by an order of ad-interim temporary injunction, this court restrained the defendants No.1, 3 and 6 from alienating or creating charge till further orders. It is obvious that when the said order was passed there were only 10 items of properties. It is noticed that the said order is till date in subsistence. As a subsequent development several other items of properties were also included and other parties were also impleaded. It is also a matter of record that the 6<sup>th</sup> defendant demised leaving behind the present applicants.

8. The cause for seeking leave of this court to file objections to IA No.II is that the plaintiffs have very recently by taking undue advantage of the exparte order on IA No.II have caused revenue entries regarding stay order in all the suit schedule properties, but in fact, the order was in-operation only with respect to



suit schedule item No.1 to 10 properties. Therefore, in order to contest the IA No.II, the present application is sought and by considering the said aspect, although there is an in-ordinate delay, but in view of the fact that IA No.II is still under consideration and exparte order passed on 07.02.2015 is still operational, the applicants deserves an opportunity to contest IA No.II on merits by filing objections. Accordingly, the point under consideration is answered in the **Affirmative**.

9. Point No.2: In view of the above findings on point No.1, the following;

**ORDER**

IA No.31 filed by the defendants No.6(a) to 6(d), U/S 151 of CPC is allowed with costs of Rs.500/-.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 25<sup>th</sup> day of April, 2026)

Sd/-

(IRFAN)  
Senior Civil Judge,  
Kadur.