



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., AT MUDIGERE
: Present :**

**Sri. Prakash P.M., M.B.A., L.L.B.,
Senior Civil Judge & JMFC,
Mudigere.**

O.S No. 48/2025

Dated this the 1st day of June 2026

Plaintiffs:

1. Smt. Asharekha,
Wife of Mohandas Prabhu,
Aged about 64 years
Home maker,
Kelabylu, Kalasa Town,
Post and Taluk
Chikkamaglauru District.

2. Smt. Rooparekha,
Wife of Suresh Prabhu
Aged about 60 Years,
Home Maker,
Kuruvalli Agrahara,
Kuruvalli Post,
Thirthahalli Taluk,
Shivamogga District.

3. Smt. Shashirekha,
Wife of Ganapathi Nayak,



Aged about 56 Years,
Home Maker,
Kattehaklu Village and Post
Thirthahalli Taluk,
Shivamogga District.

(Rep by Sri. D.S., Advocate)

-VS-

Defendants:

- 1. Mr. Pradeep Kamath,**
S/o Late Venkatesh Kamath,
Un employed,
Aged about 63 years,
K.M. Road,
Kalasa Town, Post and Taluk,
Chikkamagaluru District.
- 2. Smt. Ranjith Pai,**
Wife of Late Ravish Pai,
Aged about 54 years,
Home Maker,
House No. 1-259 Mahlasa Krupa,
Bannur Village and Post,
Putturu Taluk,
Dakshina Kannada District-574203
- 2. Smt. Jayalaxmi,**
Wife of Late Nagaraj Kini,
Home Maker,



Aged about 48 years,
House No. 4-100,
Indiranagara,
Kote Katapadi Post,
Udupi Taluk and District

(D1 By Sri. T.A., Advocate and
D2 & 3 By Sri. M.S.G., Advocate)

PARTIES TO IA No.I

Applicants/plaintiffs: Smt. Asharekha and others

Vs.

Opponent/defendant No.1: Sri. Pradeep Kamath

1	Provisions under which the application is filed	Under order XXXIX rule 1 and 2 of CPC
2	Relief sought for	Temporary injunction
3	The date on which the application is filed	02.08.2025
4	Number of the application	IA. No. I
5	Date on which the objection filed by opponents	Written statement treat as objection to IA



6	The date on which the order were passed on the said application	01.06.2026
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(Prakash.M)
Sr. Civil Judge & JMFC,
Mudigere.

ORDER ON I.A.No.I FILED BY THE PLAINTIFFS UNDER
ORDER 39 RULE 1 AND 2 OF CPC

The plaintiffs have filed IA No.I under Order 39 rule 1 & 2 of C.P.C. to grant ad-interim temporary injunction restraining the defendant No.1, his men, servants, agents, and any other persons claiming right through from him not to alienate, sale, rent, mortgage, lien or create any third party interest application schedule property till the disposal of the suit.

2. In the affidavit annexed with IA, the plaintiffs stated that they and defendants No. 1 to 3 are the children of Late Venkatesh Kamath and Late Padmavathi Bai. Their father passed away on 09.07.2000, and their



mother died on 01.06.2025. Following the father's death, the schedule properties situated at Mavinakere Village and Kalasa, Kalasa Taluk, Chikkamagaluru District, were mutated in the name of Padmavathi Bai and defendants No. 1 to 3. The plaintiffs submit that, during the last two years of her life, Padmavathi Bai, aged about 92 years, was bedridden, unable to speak, see, or move, and was not in a sound state of mind or health to execute any document. Despite this, defendant No. 1, Pradeep Kamath, in collusion with defendants No. 2 and 3 and one Prashanth R, allegedly manipulated and coerced her into executing a registered Will dated 11.01.2025, registered on 13.11.2025 before the Sub-Registrar, Mudigere. The plaintiffs contend that the Will is fraudulent, executed under undue influence and suspicious circumstances, and further point to the presence of a thumb impression contrary to her usual signature as indicative of fabrication.

2a. The plaintiffs further contend that defendant No. 1, who allegedly has no independent source of income



and is dependent on rental income from the schedule properties, has wrongfully excluded the plaintiffs and other defendants from their lawful shares and is attempting to alienate the properties. They assert that the properties are ancestral in nature, entitling each of the six siblings to a 1/6th share. It is also stated that Padmavathi Bai was receiving monthly rent of ₹50,000/-, which is now being collected solely by defendant No. 1. The plaintiffs have approached the Grama Panchayat and police authorities to prevent mutation and unlawful actions, but apprehend imminent disposal of the properties. Hence, they have filed the present suit seeking partition, declaration that the Will is null and void as a product of fraud, misrepresentation, and coercion, and for a permanent injunction restraining defendant No. 1 from alienating the schedule properties, along with other appropriate reliefs.

3. On the other hand, Defendant No. 1 has filed a memo adopting the written statement as his objections



to I.A. No. I. Defendant No. 3 has also sought allotment of his/her lawful share in the schedule properties.

4. In the written statement, Defendant No. 1 has admitted the relationship between the parties but denied all other averments in the plaint as false. He specifically contends that suit schedule Item No.1 is the self-acquired property of Late Padmavathi Bai, who purchased it under a registered sale deed dated 15.04.1966, and asserts that the allegations regarding her ill health, incapacity, and unsoundness of mind are untrue. He states that, after execution and registration of the Will, she attended the marriage of Plaintiff No. 2's daughter at Thirthahalli and stayed there for two days, demonstrating her sound condition. He further submits that the plaintiffs have made false allegations about their mother's mental state to invalidate the Will, even relying on a misinterpretation of a photograph, whereas she merely had a habit of keeping her mouth open. The defendant argues that if he had any dishonest intention,



he could have obtained the property through a gift or sale deed rather than a Will. He also contends that family properties had earlier been sold for marriage expenses and that the remaining portion was intended for him, which was known to all. He further submits that the reliefs sought and court fee paid are improper, that he is unmarried and in poor health, and that the suit has been filed to harass him. Hence prays to dismiss the suit.

5. Heard the learned counsel for the plaintiffs and defendant No.1.

6. Now the points that would arise for my consideration is:

1. Whether the plaintiffs have made out prima- facie case in their favour?
2. Whether the plaintiffs prove that balance of convenience lies in their favour?



3. Whether the plaintiffs proves that they would be put to irreparable loss and injury if T.I. is not granted in their favour?

4. What order?

7. My finding on the aforesaid points for consideration is:

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 .

8. Point No.1 to 3: As these points are interconnected, in order to avoid repetition, they are taken up together for discussion.

9. Admittedly, the suit is one for partition and separate possession. Declare that alleged Will bearing No. MGE-3-00099-2024-25 dated 11.01.2025 registered on 13.11.2025 before Sub-Registrar, Mudigere is null,



void and not binding on the plaintiffs and defendants. The plaintiffs have filed IA No. 1 seeking to restrain the defendant No.1 from alienating the suit schedule properties to the third parties until the disposal of this suit.

10. The learned counsel for both the plaintiffs and the defendants have reiterated the statements made in their respective application and written statement. I have carefully gone through the entire records of the case.

11. The plaintiffs, in support of their case, have relied upon the following documents, E-Swathu of the suit schedule property, item No.1 of the property bearing no 150900400300200515 of Kalasa gram panchayath. RTC extract pertaining to suit schedule item No.2 Sy.No. 4 measuring 2 acres 24 guntas out of which 1 gunta of Mavinkere village Kalasa Taulk stands in the name of Padmavathi bai. Tax paid receipt issued by Kalasa gram panchayath. Death certificate of Padmavathi bai @ Padmavathi Kamath. Certified copy of Registered



WILL dated 11.01.2025 executed by Smt. Padmavathi Kamath @ Pathmavathi Bai in favour of defendant No.1. Requisition given by Mohandas prabhu husband of plaintiff No.1 to P.D.O Kalasa gram panchayath dated 6/08/2025, to not to mutate khatha in the name of defendant No.1. Acknowledgment issued by the Kalasa police dated 7/08/2025. Endorsement issued by the Kalasa police dated 7/08/2025. Requisition given by plaintiff No. 1 to P.D.O Kalasa gram panchayath dated 11/08/2025 to not to mutate khatha in the name of defendant No.1. Endorsement issued by the Grama Panchayathi Kalasa dated 11/08/2025.

12. On the other hand, the defendant No.1 has placed xerox copy of sale deed bearing S.R. No. 50/1966-67 dated 16.04.1966 executed by Dr. S. A Rao in favour of Smt. Padmavathi Bai in respect of site. RTC extract pertaining to suit schedule item No.2 Sy.No. 4 measuring 2 acres 24 guntas out of which 1 gunta of Mavinkere village Kalasa Taulk stands in the name of Padmavathi bai. RTC extract of the property bearing



Sy.No. 10/2 of Mavinakere village of the year 2003-04 and Photographs.

13. It is the specific case of the plaintiffs that they and defendants No.1 to 3 are the children of late Venkatesh Kamath and late Padmavathi Bai, and that the suit schedule properties are joint family/ancestral properties in which each of them is entitled to a share. The plaintiffs have seriously disputed the genuineness of the Will dated 11.01.2025 allegedly executed by late Padmavathi Bai in favour of defendant No.1.

14. On perusal of the record, it is evident that the relationship between the parties is not in dispute. The revenue records such as RTC extracts and E-Swathu stand in the name of Padmavathi Bai. The existence of the registered Will is also not in dispute; however, its validity and genuineness are seriously questioned by the plaintiffs.

15. It is pertinent to note that the plaintiffs have specifically contended that at the time of alleged



execution of the Will, the testatrix was aged about 92 years, bedridden, and not in a sound state of mind. They have also raised suspicious circumstances such as the use of thumb impression instead of her usual signature. These aspects require full-fledged trial and cannot be conclusively decided at this interlocutory stage.

16. Herein it is relevant to observe that the defendant No.1, though asserting that the property is self-acquired and the Will is valid, has not produced any conclusive material at this stage to dispel the suspicious circumstances alleged by the plaintiffs. The sale deed of the year 1966 and RTC extracts only prima facie show title in the name of Padmavathi Bai but do not by themselves establish the exclusive right of defendant No.1 under the disputed Will.

17. At this juncture, the Court is only required to examine whether a prima facie case exists and not to adjudicate upon the validity of the Will conclusively.



The pleadings and documents placed on record disclose triable issues regarding the nature of the property and genuineness of the Will. Hence, the plaintiffs have succeeded in establishing a prima facie case.

18. With regard to balance of convenience, it is pertinent to note that if the defendant No.1 is not restrained and is permitted to alienate or encumber the suit schedule properties, it would lead to multiplicity of proceedings and complicate the rights of the parties. On the other hand, if an injunction is granted, no irreparable hardship would be caused to the defendant as he is already in possession and enjoyment of the property.

19. As to irreparable injury, on perusal of the record, it is clear that the suit is one for partition and declaration. If the property is alienated during pendency of the suit, the plaintiffs' rights, if ultimately established, would be seriously prejudiced and may not be adequately compensated in terms of money. Therefore, the plaintiffs have made out a prima facie



case, the balance of convenience lies in their favour, and they would suffer irreparable loss if injunction is not granted. Accordingly, I answer **Points Nos. 1 to 3 in the affirmative.**

20. Point No.4: In view of above discussion of points No.1 to 3, I proceed to pass the following;

ORDER

The IA No.I filed by the plaintiffs under order 39 Rule 1 and 2 of C.P.C is **hereby allowed.**

The defendant No.1 is hereby restrained by way of temporary injunction from alienating or encumbering the suit schedule properties in any manner until the disposal of the suit.

No order as to costs.

(Dictated to the stenographer directly on computer, Typed by her, Corrected and then pronounced by me in the open court on this the 1st day of June 2026)



(Prakash.M)
Sr. Civil Judge & JMFC,
Mudigere.