

KACN320033812024



IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC,
AT KOLLEGALA

PRESENT: SRI. M. RANJITH KUMAR B.A,L' L.L.B.
I Addl. Civil Judge & JMFC., Kollegala.

Dated on this the 06th day of June-2026

O.S. NO.245/2024

Plaintiffs : 1. Sri. Govindaraju,
S/o late Varadashetty,
Aged about 50 years,

2. Sri. Ganesh,
S/o late Varadashetty,
Aged about 48 years,

3. Smt. Nagamma W/o Marappa,
D/o late Varadashetty,
Aged about 60 years,

4. Sri. Mahadeva,
S/o late Varadashetty,
Aged about 49 years,

5. Sri. Muniyappa V.,
S/o late Varadashetty,
Aged about 44 years,
All are R/at: Chikkalathuru Village,
Doddalathuru Post,
Ramapura Hobli, Hanuru Taluk,
Chamarajanagara District.

Versus

Defendant : 1. Sri. Rama,
S/o late Madashetty,
Aged about 62 years,
R/at: Chikkalathuru Village,
Thotada Mane, Doddalathuru Post,
Ramapura Hobli, Hanuru Taluk,
Chamarajanagara District.

INTERIM APPLICATION NO- I

Applicants/: Sri. Govindaraju & Others
(Plaintiffs)

Versus

Opponents/: Sri. Rama
(Defendant)

i.	Provision under which the application is filed	Under Order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure.
ii.	Relief sought for	Seeking ad-interim temporary injunction against the defendant.
iii.	The date on which the application is filed	07.08.2024
iv.	Number of the application	I
v.	The date on which the objections are filed by the different opponents	25.04.2025
vi.	The date on which the orders were passed on the said application	06.06.2026

ORDER ON IA-I

1) The plaintiffs have filed present application under Order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure, seeking ad-interim temporary injunction against defendant, restraining him from alienating the schedule property in favor of third parties, pending disposal of the suit. It is the case of the plaintiffs that, themselves and defendant are the siblings and they constitute Hindu Undivided joint family and their grandparents, Sri.Buddashetty and Smt.Pachchamma had two children by name Sri.Madashetty and Sri.Varadashetty and said Sri.Madashetty had married to one Smt.Gangamma and within 4 to 5 months after marriage, Sri.Madashetty died due to mental illness and at the time when Sri.Madashetty died, the defendant was 2-3 months baby in the womb and subsequently Smt.Gangamma continued her marital life with the second son Sri.Varadashetty and Smt.Gangamma through Sri.Varadashetty gave birth to plaintiff No.1 to 3 and subsequently said Sri.Varadashetty married to one

Smt.Chinnathayamma and said Smt.Chinnatayamma gave birth to plaintiff No.4 and 5 and she died when plaintiff No.5 was 6 months child. Sri.Varadashetty and Smt.Gangamma during their lifetime never partitioned their family properties and their family owned 7 Acres 65 Cents in Sy.No.381 and father of the plaintiffs had allowed Smt.Gangamma to get the Katha of the schedule property into her name, but it is the property belonging to their father Sri.Varadashetty, such being the case the defendant by taking undue advantage of the Katha in the name of Smt.Gangamma, has forcefully got partition deed and got katha of schedule property into his name and now taking undue advantage of having Katha in his name is trying to alienate the schedule property in favor of third parties, leading plaintiffs to file the present application.

2) In counter to the application, the defendant has filed memo adopting his written statement as objection to I.A No.I. The defendant in his written statement has specifically denied the plaint averments and further contended that, his

grandparents had four children by name Madashetty, Madamma, Muniyamma and Varadashetty and Smt.Madamma has seven children by name Rama, Basamma, Govindamma, Mada, Jayamma, Nagamma, Puttamma and Naga and Smt.Muniyamma has four children by name Basappa, Krishna, Mashn and Channa, but the plaintiffs have not made any of them as parties to the suit and further, contended that, he is the son of the one Madashetty and the plaintiffs are the children of the Sri.Varadashetty and his grandparents during their lifetime, partitioned their family properties between his male children accordingly half of the property in Sy.No.381 measuring 3 Acre 81 Cents is fallen to the share of Madashetty and remaining half of the property i.e., 3 Acre 81 cents was fallen to the share of his uncle Sri.Varadashetty and subsequently after the death of Sri.Madashetty the Katha of the property fallen to his father's share was mutated into the name of her mother and subsequently himself and his mother have entered into an partition deed, in which schedule property is fallen to his

share and accordingly Katha of the same is mutated into his name and the half portion of the property fallen to the share of his uncle Sri.Varadashetty is still in his name, but the plaintiffs have filed the present suit with wrongful intention to grab the schedule property from the defendant. Accordingly, sought for dismissal of the application.

3) Heard learned counsel for plaintiffs and defendant. Perused materials on record, accordingly the following are the points for consideration of this court.

- 1. Whether plaintiffs have established prima-facie case against defendant?*
- 2. Whether the balance of convenience lies in favor of the plaintiffs?*
- 3. Whether rejection of application would cause hardship to the plaintiffs?*
- 4. What order?*

4) For the reasons below, this court answers the above points for consideration as hereunder.

Point No.1 – In the Negative.

Point No.2 – In the Negative.

Point No.3 – In the Negative.

Point No.4 – As per final order.

REASONS

5) Point No.1 :-

It is the case of the plaintiffs for partition and separate possession wherein the plaintiffs have filed present application under Order XXXIX rule 1 & 2 of CPC, seeking ad-interim temporary injunction to restrain the defendant from alienating the schedule property. On perusal of the materials on record it is admitted that one Sri. Buddashetty and late Pachchamma had 2 children and their family was holding property measuring 7 acres 65 cents in Sy. No.381, but is the contention of the plaintiffs that defendant is the son of Sri.Madashetty and Smt. Gangamma and the plaintiffs no.1 to 3 are children of Sri. Varadashetty and Smt. Gangamma and the plaintiff no.4 and 5 are the children of Sri. Varadashetty and Smt. Chinnathayamma and suit schedule property is their property. On the other hand the defendant claiming oral

partition between his father and Sri.Varadashetty claims to be owner of the property.

6) From the documents produced by the defendant it could be observed that property measuring 03 acres 84 cents in Sy.No.381/2 is entered in the name of Sri.Varadashetty which is said to have entered based on MR. No.22/1990-91 and the katha of the schedule property is entered in the name of defendant. Under such circumstance when the property measuring entire extent of 7 acres 65 cents is the property of the ancestor of the plaintiffs and the defendant, this Court could not understand why the plaintiffs have only chosen to file suit for partition only with respect property held in the name of defendant and left off property held in the name their father and such an act by the plaintiffs would certainly make this Court to infer that the plaintiffs prima-facie appears to have filed present suit not in clean hands and it is settled law that , the suit filed by the person in unclean hands is not entitled for the equitable relief from the court. Thus this court is of the opinion that the plaintiffs have not established prima-

facie case against the defendant. Accordingly this court answers **Point No.1 in the Negative.**

7) Point No.2 & 3:-

Since plaintiffs have failed establish prima-facie case considering point no2 and 3 does not arise. Accordingly this court answers **Point No.2 and 3 in the Negative.**

8) POINT NO.4: For the reasons stated above, this Court proceeds to pass the following:

:- ORDER:-

IA No-I filed by the plaintiffs under Order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure, is hereby dismissed.

(Dictated to the stenographer, transcribed and typed by him, the same is corrected, signed and then pronounced by me in the open court on this the 06th day of June 2026).

(M.RANJITH KUMAR)
I Addl.Civil Judge & JMFC.,
Kollegala.