

KACN320011392017



IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC,

AT KOLLEGALA

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

Dated on this the 18th day of July-2025

O.S. NO 111/2017

Plaintiffs : 1. Sri. R.P.Ragavendra
S/o T.G.Rajendra,
Aged about 27 years

2. Sri. R.P. Rahul
S/o T.G.Rajendra,
Aged about 23 years
Both are R/at: #476, 19th Cross,
Aravindanagar,
Mysuru.

Versus

Defendants : 1. Sri. T.G.Rajendra,
S/o late Gundappa
Aged about 53 years
R/at: #475/3, Ward No.3,
Gundlupete Town,
Chamarajanagara District.

2. Smt. Sulochana
W/o late Venkatappa,
Aged about 65 years,
R/at: Hunasanahalli Village,
Kanakapura Taluk,
Ramanagara District.
3. Sri. Ramesh
S/o Gendagegowda
Aged about 43 years,
R/at: Thellanuru Village,
Palya Hobli, Kollegal Taluk,
Chamarajanagara District.

INTERIM APPLICATION NO -VII

Applicants/ : Sri. R.P.Ragavendra & Another
(Plaintiffs)

Versus

Opponents/ : Sri. T.G.Rajendra,
(Defendants) & Others

ORDER ON IA-VII

1) The plaintiffs have filed the present application under order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure, seeking ad-interim temporary injunction against the defendant No.3 restraining him from alienating the item No.1 of schedule property pending disposal of the suit.

2) In counter the defendant No.3 filed objection by contending that the application filed by the plaintiff is not maintainable under law as the plaintiffs cannot seek partition during lifetime of the defendant No.1 who is the father of the plaintiffs and since the defendant No.1 is the brother of the executant of the Will Dated 16.06.2014 has not questioned the said Will the plaintiffs who do not have locus to sue the defendant No.3 cannot challenge the said will Deed dated 16.06.2014. Accordingly sought for dismissal of the IA.

3) Heard learned counsel for the plaintiffs, and learned counsel for defendant No.3, learned counsel for defendant No.3, filed memo along with list of documents in support of the arguments on IA No-VII.

4) Perused materials on record, accordingly the following points are arose for consideration of this court.

- 1. Whether the plaintiffs have established prima-facie case against the defendant No.3?*
- 2. Whether the rejection of present IA would cause hardship to the plaintiffs?*

3. Whether the balance of convenience lies in favor of the plaintiffs?

4. what Order?

5) For the foregoing reasons this court answers the above points for consideration as hereunder :

Point No.1 – In the Affirmative.

Point No.2 – In the Affirmative.

Point No.3 – In the Affirmative.

Point No.4 – As per the final order.

REASONS

6) POINT NO.1 :

It is the case of the plaintiffs for partition and separate possession on the grounds that originally item No.1 & 2 of the schedule property were belong to prepositious Sri.Gundappashetty who is the grandfather of the plaintiffs and father of the defendant No.1, subsequent to death of Sri.Gundappashetty the property was inherited by his children defendant No.1, T.G.Natesh and defendant No.2. The defendant No.1 who is the father of the plaintiffs without looking after plaintiffs has left his matrimonial house and

living in the Gundlupete along with his wife Smt.Profulla and as to seek partition when the plaintiffs obtained RTC's of the schedule properties the plaintiffs have found that the Khata of the item No.1 property was allegedly stood in the name of the defendant No.3. Hence the plaintiffs have filed present suit for partition and separate possession, wherein under present IA they are seeking ad-interim temporary injunction against the defendant No.3 restraining from alienating the item No.1 of the schedule property pending disposal of the suit.

7) On the other hand it is the case of the defendant No.3 as the schedule properties of Sri.Gundappashetty the children of the Sri. Gundappashetty after his death by inheriting have partitioned the schedule properties vide registered partition Deed dated 16.06.2014 wherein item no.1 of the schedule property was fallen to the share of the Smt.Vanajakshi who is the wife of the second son of the Sri. Gundappashetty. Said Smt. Vanajakshi after getting property in favor with her own consent has executed registered Will in favor of the defendant No.3 accordingly the Khata of the schedule property is

standing in his name. It is the further contention of the defendant No.3 that since the defendant No.1 who is the father of plaintiffs is living the plaintiffs cannot seek for partition.

8) On perusal of rival contention and the documents on record it could be gathered that the origin of the property is undisputed but the dispute is only with regard to entitlement of the share by the plaintiffs for which a full fledged trial is necessary. Thus under such circumstances, this court is of the opinion that having triable issues the plaintiffs have established prima-facie case against the defendant No.3. Accordingly this Court answers **Point No.1 in the Affirmative.**

9) POINT NO.2 & 3:

For the reasons stated above, since there is triable issue, this court is of the opinion that in order to avoid multiplicity of the proceedings before this court it would just and proper to grant ad-interim temporary injunction pending disposal of the suit and such an act would not cause any hardship to either

of the parties. Accordingly this Court answers **Point No.2 & 3 In the Affirmative.**

10) POINT NO.4: For the reasons stated above this court proceeds to pass the following order.

:- ORDER :-

IA No-VII filed by the plaintiffs under order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure is hereby allowed.

The defendant No.3 by way of temporary injunction is hereby restrained from alienating the item No.1 of schedule property in favor of any third parties, pending disposal of the suit.

(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 18th day of July 2025).

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