

allowed no harm would be caused to the defendants. The plaintiffs have made out prima-facie case and balance of convenience lies in their favour. Therefore, prays to allow the application.

3. The Advocate for defendants filed objection denying the averments of affidavit filed by the plaintiff and contended that the plaintiff has filed false application before the Court which is not maintainable. The plaintiffs in their plaint itself admitted that, the defendants are owner of the property. The question of claiming the rights of the suit property does not arise. Further contended that the plaintiffs are not in possession of the suit property at any point of time and they are have not described the suit property and not added the necessary parties in the proceedings. The defendants with the help of Government and obtained the permission from the Gramapanchayath and completed the construction work of about 90%. When the plaintiffs are not in possession over the suit property, at this stage the application is not maintainable. Hence, prays to dismiss the application.

4. I have heard both sides and perused the pleadings of the parties, I.A. as well as documents relied by both the parties to the suit. The following points arise for my consideration:

1. Whether the plaintiffs have made out prima facie case?
2. Whether the balance of convenience is in favour of the plaintiffs ?
3. Whether the plaintiffs would suffer irreparable injury, if prayer for temporary injunction is dis-allowed?
4. What order?
5. My answer to the above points are as under.
Points No.1 to 3 : In the Negative.
Point No.4 : As per final order, for the following:

REASONS

6. **Points No.1 to 3:** All these points are connected to each other, hence they are taken for common consideration.

7. The plaintiffs have filed this suit against the defendants for the relief of partition and separate possession claiming $\frac{1}{2}$ share in the suit properties. The defendants appeared before the Court and filed written statement and based on the pleadings, issues have been framed. The plaintiff examined as PW.1 and got marked certain documents as exhibit 'P' series. When the case posted for cross of PW.1, at this stage, the plaintiffs have filed this application on 04.02.2026 and defendants have filed objection on 17.02.2026.

8. As per averments of plaint, the suit properties are joint family properties of plaintiffs and defendant No.1 to 7. The defendants have disputed the joint ownership of plaintiffs and relationship with plaintiffs. On perusal of Ex.P.1 to 5 it appears that, the suit properties are standing in the name of propositus Virupakshappa Maddi. The defendants have disputed the relationship with the plaintiffs. The plaintiffs have not produced any documents to show that, they are the co-parcener with the defendants. In a partition suit coparceners are having rights in the coparcenary properties. Here the plaintiffs have not produced any documents to show that, the suit properties are coparcenary properties of plaintiffs and defendants. On perusal of order sheet, initially this Court has granted temporary injunction against the defendants. Thereafter, the temporary injunction order is not extended and case posted for hearing. Once again the plaintiffs have filed the same application before this Court.

9. Today both side counsels filed memo with certain photocopies. The plaintiffs have produced photocopies dated 02.04.2026, 03.04.2026, 06.03.2026 and 04.04.2025 and defendants have also filed memo with photocopies. On perusal of the photocopy placed by the respective parties, the house construction is almost all completed and remained with plaster work and other things. The plaintiffs having knowledge about the construction of the house in the suit

property. In spite of having knowledge about the construction, the plaintiffs did not file the application at the earlier stage. When the defendants have completed their construction, the plaintiffs have moved this application. The photocopies itself indicates that, the house construction is completed. Therefore, at this stage, the plaintiffs have not made out prima facie case, balance of convenience does not leans in their favour and they will not be put to any hardship if temporary injunction is refused. So, considering the materials on record I answer points No.1 to 3 in **Negative.**

10. **Point No.4:** In view of my answer to points No.1 to 3 as stated above, I proceed to pass the following;

ORDER

The I.A. filed by the plaintiffs U.O. XXXIX
Rule 1 and 2 of CPC is rejected.

The costs shall follow the event.

(Dictated to the Stenographer directly on computer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **04th day of April - 2026**)

Sd/-
(Yamanappa Karehanumanthappa)
Prl. Senior Civil Judge, Hubballi.