



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

Present: **Smt. Padmashree Ratnakar Patil.,**

B.A. LLB. (Spl.)

Addl. Senior Civil Judge & JMFC., Gadag.

O.S. No. 124/2025

Dated this the 03rd day of June, 2026

PLAINTIFF : Smt. Vijayalakshmi W/o. Timmanna
Somakkannavar

// Versus //

DEFENDANTS : Bhimaraddi @ Bhimappa S/o.
Hanamaraddi Ritti and others

PARTIES TO I.A NO.I

APPLICANTS : Smt. Vijayalakshmi W/o. Timmanna
(PLAINTIFFS) Somakkannavar

V/S.

OPPONENTS : Bhimaraddi @ Bhimappa S/o.
(DEFENDANTS) Hanamaraddi Ritti and others



ORDER ON I.A. NO.I FILED U/O 39 RULE 1 AND 2
AND R/W SEC.151 OF CPC

The plaintiff filed this application under Order 39 Rule 1 and 2 and R/W Sec.151 of CPC seeking to restrain the defendant No. 1, 3 to 6 from alienating, transferring or encumbering on the suit properties No.1(B) to 1(D) within the limits of Arashinagodi, Hirekoppa, Peta village in Naragund Taluk in in any manner until disposal of the suit.

2) The plaintiff sworn with the affidavit and submits that, the suit schedule properties are ancestral and joint family properties of plaintiff, defendant No. 1 and 2 and defendant No. 7 to 10.

It is further submitted the defendant No. 1 and 2 are the parents of plaintiff. The defendant No. 3 to 6 claiming that, they are the children of defendant No. 1 and one Renavva. The plaintiff submits that, the



Renavva not married with defendant No. 1. The defendant No. 2 is only legally wedded wife of defendant No. 1. The suit properties are joint family properties of plaintiff, defendant No. 1 and 2 and defendant No. 7 to 10. The defendant No. 3 to 6 behind the back of plaintiff and defendant No. 1 get partition the suit properties on 16.01.2017 and 04.11.2023. Therefore, plaintiff filed this application.

3) On the other hand, defendants No.1 to 8 appeared through their counsel and filed written statement and also filed a memo stating that the contents of the written statement be consider for objection to IA No.I. The Defendant No. 9 and 10 placed ex-parte in this case.

4) The defendant No. 1 admitted the relationship with plaintiff and defendant No. 2. further defendant No.1 submits that, he married with one Renavva and



out of wedlock of defendant No. 1 and Renavva, defendant No. 3 to 6 are born.

The defendants submits that, suit of the plaintiff is bad for nonjoinder of necessary parties. Further it is contended that, suit property item No.1(b)(3) of Naragund Taluk Arishinagudi village R.S. No. 22/2B, R.S. No. 258/2 of Hirekoppa village Naragund Taluka, R.S. No. 22/2B and 258/2, R.S. No. 185/1, R.S. No. 76/16, RS No 76/16 are purchased by the defendant No. 1.

Further it is submitted that, R.S No. 3/2B was belonging to Smt. Sushilavva W/o Venkaraddi Meti and Smt. Giriyavva W/o Hemaraddi Meti , these two persons relinquished their right over the property in favor of defendant No 1 on 20.01.2001. therefore, all these properties are self acquired properties of defendant No.1. Thereafter his self acquired proeptries are



partitioned between the defendant No 1 and his children i.e. defendant No 3 to 6 .

It is submitted that R.S. No 44/2A measuring 1 acres 14 guntas , R.S. NO 219/2 measuring 4 acres 31 guntas and R.S. No 219/3 measuring 2 acres are ancestral properties. In theses properties defendant No 1, 7 and 8 and uncles of defendant No 1 i.e. Basappa. Bhimareddi Ratti and Krishnareddy S/o Bhimareddy Ratti are having share in these suit properties.

Further it is submitted that R.S. No 35/1 measuring 12 acres 5 Guntas situated at Arshingodi village , Nargund Taluka, Dist Gadag. This properties is belonging to one Sushilavva Meti. She reliquish her right over the said property in favour of defendant No 3, therefore the said property is self acquired property of defendant No 3. The defendant No 3 from the income of said property and he is working in V.G Halkatti Agro center , from the said income he purchased R.S. No



60/5 measuring 6 acres 26 gunthas . Therefore this property also self acquired property of defendant No 3. The defendants prays to dismiss the application .

5] In view of the above said pleading following points arises for consideration of this court:

1. Whether the Plaintiff proves Prima-facie case?
2. Whether the plaintiff prove balance of convenience lies in his favour and irreparable loss would be caused to him if injunction is denied?
3. What Order?

6] Heard both side.

7] My finding on the above points is as under:

Point No. 1 : In the Affirmative

Point No. 2 : In the Affirmative

**Point No. 3 : As per final order for
the following;**



REASONS

8] **Point No.1** : The plaintiffs filed this suit for the relief of partition and separate possession of the suit properties against the defendants.

9) It is admitted fact between the parties that the plaintiff is daughter of defendant No 1 and 2 . The palintiff submitted that suit properties are joint family propetries of palintiff and defendant No 1 and 2. defendant No 7 to 10 are uncles of plaintiff. The plaintiff claiming partition in the suit schedule properties . It is the contention of the defendants that some of the suit properties are self acquired properties of defendant No 1 and some of the suit properties are self acquired properties of defendant No 3. therefore plaintiff is not entitle any share in those properties.



The defendants further submits that suit properties R.S. No 44/2A measuring 1 acres 14 guntas , R.S. NO 219/2 measuring 4 acres 31 guntas and R.S. No 219/3 measuring 2 acres are ancestral properties , the defendant No 1 claiming his share in these properties along with plaintiff. But in order to ascertain these fact trail is required. At this juncture plaintiff claiming that, she is also having share in all the suit properties and prayed for restrained the defendants from alienating the suit properties.

It is the specific case of the plaintiff that, defendant 1,3to 6 get partitioned the suit properties by way of registered partition deed dated 16.01.2017 and 04.11.2023 but plaintiff denied the relationship between defendant No 1 and defendant No 3 to 6 . As per the pleadings of defendants the suit properties are self acquired properties and plaintiff not having any share in the said porperties. In order to ascertain



these facts full fledge trail is required. No doubt if injunction is not granted by taking a advantage name appearing in the revenue records and partition deed the defendants may sell the property. The property should be kept intact till disposal of the suit. If the injunction is not grant it will cause multiplicity of the proceedings.

10] Looking to the pleading of the both side parties, in order to ascertain above said facts trail is required. Till then suit property should be kept intact. If the defendants alienate the suit schedule property it will cause multiplicity of the proceeding.

The Hon'ble High court of Karnataka in its recent order passed in MFA 101088/20 dated 24.08.2020 Between Shree Samathan Mahabaleshwar Deva Gokarna and others Vs U.F.M. Ananthraj and others.



The Hon'ble High Court laid down following principle of law that discretion of the court, while granting order to temporary injunction in favour of the plaintiff, must meet following requirement,

(i) Existence of prima facie as pleaded necessitating protection of rights of issue of Temporary injunction.

(ii) when the need for protection of plaintiffs rights is compared with or weighed against the need for protection of defendants rights, or material infringement of defendants rights, the balance of convenience in favour of the plaintiffs or defendants.

(iii) clear possibilities of irreparable injury being caused to the plaintiffs if the temporary injunction is not granted. in addition the temporary injunction being an equitable relief, the discretion to grant such relief will be exercised only when the plaintiffs conduct is



free from blame and he approaches the court with clean hands.

The Hon'ble High court above said decision coted this citation reported in ILR 2006 (KAR)3961 between Reebok Company Vs Gomzi Active.

para 15] A party would be entitle to relief under order 39 Rule 1 and 2 provided it satisfies the court that it has a prima-facie case, that balance of conveniences in his favour and that irreparable loss and injury would be caused to him if interim relief is not granted. The aforesaid three phrases, as emphasized time and again, are not rhetoric phrases but elastic words to meet a wide range of situation in given set of facts and circumstantial. The Burden is always on the plaintiff/applicant to satisfy the court that a prima-facie case exists in his favour.



11] Looking to the facts and circumstances of the case the plaintiff has at this juncture established the prima-facie case in her favour. For these reasons this court holds point no 1 In the Affirmative.

12] **Point No.2 :** Injunction relief is equitable relief. If the injunction is granted no hardship or loss would be caused to the defendant No. 1, 3 to 6. Since defendants are denying the share of plaintiff, therefore balance of convenience is lies in favour of plaintiff. Moreover if injunction is not granted, it will cause irreparable hardship to the plaintiff and it will cause multiplicity of the proceedings. At this juncture as guidelines laid by the Hon'ble High court, the plaintiff established all the three ingredients. For all these reasons and discussions this court holds point No.2 in the affirmative.



13] **Point No. 3:** In the result proceed to pass the following order.

:O R D E R:

The application No.I filed U/o 39 Rule 1 and 2 and R/w Sec.151 of CPC by plaintiff is hereby allowed.

The defendant No.1, 3 to 6 are restrained from alienating/creating any charge over the suit schedule No 1(B) to (D) properties in any manner as prayed in the application till disposal of the suit.

(Dictated to the typist directly on computer typed by her, the same is corrected and then pronounced by me in the open court on this the 03rd day June 2026)

Sd/-

(Smt. P.R.Patil)

Addl. Senior Civil Judge and
JMFC, Gadag.