

IN THE COURT OF PRL. CIVIL JUDGE & J.M.F.C. AT**ARASIKERE.****:- Present :-**

Smt. Mamatha P.
BAL., LLB., LLM.,
C/c Prl. Civil Judge & JMFC,
Arasikere.

Dated: 15th OCTOBER 2025.**ORIGINAL SUIT No.472/2022**

Plaintiff : Kumari Kavana H.P
D/o Prabhakar,
Aged about 16 years,

Since minor represented by
natural guardian grand mother,

Smt. Padmavathi W/o
Sri. H.M Narayanappa,
Aged about 66 years,
R/o No.31, Halepalya village
& Post, Tiptur Taluk,
Tumkur District.

(By Sri. B.K.V., Advocate)

V/s

Defendants : 1. Smt. K.Rathnamma
W/o M.R Prakash
D/o Late Keshavamurthy,
Aged about 68 years,

2. Smt. Gayathri
W/o B.T Nayayan
D/o Late Keshavamurthy,
Aged about 66 Years,

3. K. Krishnamurthy
S/o Late K.Keshavamurthy,
Aged about 64 Years,

4. K. Mohankumar
S/o Late K.Keshavamurthy,
Aged about 56 Years
5. K. Prabhakar
S/o Late K.Keshavamurthy,
Aged about 49 Years

All are R/o K.B Hall village
& Post, Lakya Hobli,
Chikkamagaluru Taluk.

(Exparte)

Parties to I.A.No.I

Applicant/Plaintiff : Kumari Kavana H.P

V/s

Opponent/defendant : Smt. K.Rathnamma and others

i.	Provision under which the application is filed	IA No.1 Under Order XXIX Rule 1 and 2 of CPC
ii	Relief sought for	Granting Temporary Injunction
iii	The date on which the application is filed	11.02.2022
iv	Number of the application	I
v	The date on which the order objections are filed by different opponents	Nil
vi	The date on which the order were passed on the said applications	15.10.2025

ORDER ON I.A.No.I U/O XXXIX RULE 1 AND 2 OF CPC

The plaintiff has filed IA No.1 under order XXXIX Rule 1 and 2 of CPC, with a prayer to restraining the defendant Nos.1 to 5 from alienating, mortgaging the suit schedule

property to anybody till disposal of the suit in the interest of equity and justice.

In respect of suit schedule property is as under:

Schedule

A immovable Property bearing Sy.No.45/2 measuring A0.38 guntas situated at Doddagatta Village, Javagal Hobli, Arasikere Taluk, bounded on:-

East : Property of Ganganna

West : Property of Mallesh

North : Property of Kumar

South : Property of Rangaswami

2. In the affidavit annexed to the IA No.1, it is stated that, plaintiff and defendant Nos.1 to 5 are the joint family members and the suit schedule property is ancestral joint family property. The defendants have colluded with each other almost in a hurry to sell away the suit schedule property which are all ancestral joint family property and also trying to mortgage and encumber the suit schedule property to defeat plaintiff as such it is very necessary to issue order of Exparte Temporary injunction in favour her, to avoid multiplicity of proceedings, as such it is very

necessary to issue exparte order of temporary injunction against the suit schedule property. If the said application is allowed no prejudice would be caused to other side, if not allowed she will be put to greater hardship on the other way it leads to multiplicity of litigations. Plaintiff have made out a prima-facie case to grant temporary injunction and balance of convenience lies in his favour, by stating so filed this application.

3. In spite of service of summons the defendants have not appeared before the Court. Hence, the defendants placed exparte.

4. Heard, both side counsel. Perused material on record. On perusal the following points arise for my consideration:-

:-POINTS:-

1. Whether the plaintiff has made out prima facie case to grant temporary injunction as prayed in application?
2. Whether the balance of convenience lies in favour of plaintiff ?

3. Whether the plaintiff prove if Temporary Injunction order is not granted, plaintiff will be put to irreparable loss?
4. What order?
5. My answer to the above points are as follows:-

Point No.1 to 3:- In the **AFFIRMATIVE**

Point No.4:- As per final order for the following:-

:-REASONS:-

6. Point No.1:- As these points are interconnected with each other, they are taken together for a common discussion in order to avoid the repetition of facts and circumstances.

7. The present application is filed by the plaintiff under Order XXXIX Rules 1 and 2 of CPC, seeking an order of temporary injunction restraining the defendant Nos.1 to 5 from alienating, mortgaging the suit schedule property until the disposal of the suit.

8. The plaintiff contends that the suit schedule property is the ancestral joint family property of the plaintiff and defendants. It is alleged that the defendants,

in collusion, are attempting to sell or mortgage the suit property in order to defeat the legitimate share and rights of the plaintiff.

9. It is further contended that if the defendants succeed in alienating or encumbering the property, it would lead to multiplicity of proceedings and cause irreparable loss to the plaintiff. Hence, the present application is filed seeking temporary injunction to maintain the status quo till disposal of the suit.

10. The plaintiff has produced documents marked as Ex.P.1 and Ex.P.2. Ex.P.1 Genealogy Tree: It prima facie establishes that the plaintiff and defendants belong to the same joint family. Ex.P.2 RTC Extract: It shows the names of the defendants in possession and cultivation, indicating joint possession and enjoyment of the property.

11. At this interlocutory stage, the Court is not expected to decide ownership or title finally; the same shall be determined at the time of trial. The limited question is whether the plaintiff has shown sufficient grounds for

protection of the property pending disposal of the suit. The plaintiff has asserted that the defendants are making attempts to alienate or mortgage the property. If the application not considered at this stage, it would defeat the purpose of the partition suit, resulting in multiplicity of proceedings.

12. At this stage by considering the materials produced by the plaintiff, this Court is satisfied that the plaintiff has established a prima facie right over the suit schedule property. The balance of convenience lies in favour of maintaining status quo, as alienation during pendency may cause serious prejudice to the plaintiff. If the injunction is not granted, the plaintiff would suffer irreparable loss, as third-party rights may be created, complicating the matter further. Hence, this Court finds it just and proper to restrain the defendants from alienating or encumbering the suit property till disposal of the suit. Accordingly, this Court proceeds to answer Point Nos.1 to 3 in the **affirmative**.

13. **Point No.4:-** In view of above said reasons while answering point No.1 to 3, I proceed to pass the following;

// ORDER //

The application filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

The Defendants are hereby restrained from alienating the suit schedule property by way of sale, gift, lease or creating any kind of charge until the pending disposal of the suit.

No order as to the cost.

(Dictated to the Stenographer, directly on computer, corrected by me and pronounced in the open court today this the 15th day October, 2025.)

(Smt. Mamatha P.)
C/c Prl. Civil Judge & J.M.F.C,
Arasikere.

**(Order pronounced in the open court
as per vide separate)**

// ORDER //

The application filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

The Defendants are hereby restrained from alienating the suit schedule property by way of sale, gift, lease or creating any kind of charge until the pending disposal of the suit.

No order as to the cost.

C/c Prl. Civil Judge and JMFC.,
Arasikere.