

KAHS600003992025



**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
& J.M.F.C., CHANNARAYAPATNA**

PRESENT: ARUNA KUMARI A

B.A. (Law), L.L.B., L.L.M.,

**PRINCIPAL SENIOR CIVIL JUDGE
CHANNARAYAPATNA**

DATED ON THIS 3rd DAY OF MARCH 2026

O.S.No.106/2025

Plaintiff : Sri.Krishnegowda M.N

V/s

Defendants : Sri.Govindaraju M.N and others

Parties to IA

Applicant/
Plaintiff : Sri.Krishnegowda M.N

V/s

Opponent/
Defendants : Sri.Govindaraju M.N and others

ORDER

The plaintiff has filed IA under Order 39 Rule 1 and 2 of CPC., seeking temporary injunction against the defendants restraining them from executing any documents of conveyance i.e., sale deed, gift deed, mortgage deed, release

deed, exchange deed etc in respect of suit schedule properties or otherwise alienating the same.

2) In the affidavit it is stated that, the plaintiff has filed suit for partition with respect to suit schedule properties. Plaintiff and defendants are blood relatives and they are brothers. They constitute joint family members. The suit schedule properties are inherited by propositous by name Narasimhegowda. There was no partition among plaintiff and defendants. Narasimhegowda is expired about 2 years back and plaintiff has improved the suit schedule properties. After demise of Narasimhegowda defendant No.1 is enjoying the fruits of suit schedule properties. While the plaintiff sought for his share, but they gave evasive reply. Hence, filed instant suit. They are intend to alienate the suit schedule properties in favour of other persons. Hence, filed instant application.

3) On the contrary written statement is filed by defendants and filed memo to treat written statement as objection to interim application and submitted that, it is admitted fact that suit schedule properties are inherited by propositous by name Narasimhegowda. But all the suit schedule properties are not ancestral properties. The plaintiff has neglected to maintain the family members. The true facts of the case is that, the father of defendant No.1's father is Ningegowda and Ningegowda has two daughters and four sons. Narasimhegowda is the 2nd son of Ningegowda. There was no partition among family members. The suit is bad for non-inclusion of other properties and non-joinder of

necessary parties. The plaintiff has not made any effort to repay the loan which was borrowed for the marriage of defendant No.2 to 5 and the father of defendant No.1 has executed Will in favour of defendant No.1 with respect to his self acquired property. Hence, prayed to dismiss the application.

4) Heard the arguments of learned counsel for plaintiff and defendants.

5) Perused the materials on record. The points that arise for my consideration are :

POINTS

1. Whether the plaintiff has made out prima facie case in his favour ?

2. Whether the balance of convenience leans in favour of the plaintiff ?

3. Whether the irreparable hardship leans in favour of the plaintiff ?

4. What order?

6) My findings on the above points are as under:

Point No.1: In Affirmative

Point No.2: In Affirmative

Point No.3: In Affirmative

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

:-REASONS:-

7) **Point No.1 :-** The plaintiff has filed this suit seeking

partition with respect to suit schedule properties. Now the contention of plaintiff is that, defendants are trying to alienate the suit schedule properties.

8) But the contention of defendants is that, the father of defendant No.1 bequeathed Will in favour of defendant No.1 with respect to his self acquired properties. More over suit is bad for non-joinder of necessary parties and non-inclusion of other properties. Hence, prayed to dismiss the application.

9) Learned counsel for the plaintiff relied upon RTC extract with respect of suit schedule properties which is standing in the name of Narasimhegowda S/o Ningegowda and mutation extract also reveals that, some of the suit schedule properties are standing in the name of Narasimhegowda. But defendants have not placed any documents to rebut the contention of plaintiff.

10) The relationship in between plaintiff and defendants is not disputed. The propositous by name Narasimhegowda is not disputed. Now the question is that, whether the suit schedule properties are liable for partition or not. But the contention of defendant No.1 is that, some of the properties are self acquired properties of his father and he has bequeathed the Will in favour of defendant No.1. In view of it defendant No.1 has become the absolute owner of those properties. Whether the suit schedule properties are liable for partition or not, whether some of the properties are self acquired properties of Narasimhegowda or not, whether Will is

executed by Narasimhegowda or not, whether defendant No.1 has become owner over some of the suit schedule properties or not are to be adjudicated at the time of trial. Now the question arises whether the plaintiff has made out prima facie case or not.

11) The contention of plaintiff and defendant No.1 could be adjudicated at the time of trial. The contention of plaintiff is that, the defendants with malafide intention to defraud right of plaintiff and to create multiplicity of proceedings is making hectic attempts to alienate the schedule properties and to create 3rd party rights by ignoring the right of plaintiff. Since defendants are making hectic arrangements to dispose off the suit properties behind back of plaintiff and to deprive legitimate right of plaintiff. If temporary injunction order is not granted, it would lead to multiplicity of proceedings and by that time plaintiff would be put into a greater hardship. If temporary injunction order is granted, no such hardship would be caused to other side. Hence, in the ends of justice as per averments of plaintiff, I answer **Point No.1 is in Affirmative.**

12) **Point No.2 and 3:-** Both the points are taken together for discussion as they revolve around the same set of facts and circumstances of the case and also for better appreciation of materials on record.

13) Prima facie the plaintiff has proved his case with respect to suit schedule properties. Under the circumstances

when the plaintiff has proved his prima facie case at this juncture, no such irreparable loss or hardship could be inferred in favour of the plaintiff with respect to suit schedule properties. If temporary injunction order is not granted, plaintiff would be put into a greater hardship. More over it would lead to multiplicity of proceedings. Therefore, I answer **Point No.2 and 3 are in Affirmative.**

14) **Point No.4:** For the reasons discussed above, I proceed to pass the following:

ORDER

Application which is filed under Order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendants are hereby restrained from executing any documents of conveyance i.e., sale deed, gift deed, mortgage deed, release deed, exchange deed etc in respect of suit schedule properties or otherwise alienating the same till the disposal of the suit.

No order as to costs.

(Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this 3rd day of March 2026)

(ARUNA KUMARI A)
Prl.Senior Civil Judge and JMFC
Channarayapatna