

KAHS600012102025



**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 5th DAY OF MARCH 2026

O.S.No.394/2025

Plaintiffs : Smt.Thayamma and others

V/s

Defendant : Sri.Kamaraju

Parties to IA

Applicants/
Plaintiffs : Smt.Thayamma and others

V/s

Opponent/
Defendant : Sri.Kamaraju

ORDER

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

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

2) In the affidavit it is stated that, the plaintiffs have filed suit for declaration and permanent injunction with respect to suit schedule property. By getting mutated Khatha in the name of defendant he is trying to alienate the suit schedule property. Hence, filed instant application.

3) On the contrary written statement is filed by defendant and filed a memo to treat written statement as objection to interim application and denied the contention of plaintiff and submitted that, the suit schedule property is self acquired property of Shivaiah and he executed the Will in favour of defendant. After his demise the Khatha was mutated in the name of defendant. Hence, prayed to dismiss the application.

4) Heard the arguments of learned counsel for plaintiffs and defendant.

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

POINTS

1. Whether the plaintiffs have made out prima facie case in their favour ?

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

***3. Whether the irreparable hardship
leans in favour of the plaintiffs ?***

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 plaintiffs have filed this suit seeking declaration and permanent injunction with respect to suit schedule property. Now the contention of plaintiffs is that, defendant is trying to alienate the suit schedule property.

8) But the contention of defendant is that, he becomes the absolute owner of the property by virtue of Will which is executed by Shivaiah who is the original owner of the suit schedule property. Hence, prayed to dismiss the application as well as suit.

9) In order to prove the contention of plaintiffs, plaintiffs have relied upon the documents such as sale deed, mutation extract, genealogical tree of the family, death certificate of Shivaiah. The sale deed reveals that, on 08.11.1974 the sale deed is executed by Shivaiah in favour of Lakshamma who is the wife of Andanigowda. Lakshamma has two children

i.e., Boregowda and Narasimhegowda and they divided the properties among themselves. After demise of Boregowda, the property is standing in the name of plaintiff No.4 i.e., Narasimhegowda. The plaintiffs are in possession over the suit schedule properties. The sale deed reveals the description of suit schedule property and mutation register extract reveals that, there was division among Boregowda as well as Narasimhegowda as well as Chunchegowda. Now the RTC is standing in the name of Narasimhegowda S/o Lakshamma Andanigowda and B.Ganesh S/o Boregowda. The mutation extracts reveals that, Shivaiah S/o Basavaiah has sold the suit schedule property in favour of Lakshamma W/o Andanigowda. Shivaiah is expired on 31.01.2023 and application is filed before Land Tribunal for seeking remedy under PTCL Act. Further the RTC extract reveals that, the name of defendant is forthcoming.

10) In order to rebut the contention of plaintiffs, defendant has placed some of the documents. It reveals that the suit schedule property is belonged to Shivaiah and possession is inherited through darkasth and defendant has produced the document i.e., order which is passed by AC, Hassan wherein it reveals that the sale deed which is executed in favour of Lakshamma Andanigowda is not valid and defendant has produced copy of Will which is executed by Shivaiah in favour of him.

11) The original owner of suit schedule property is Shivaiah is not disputed. Now the question is that, whether

suit schedule property is the absolute property of defendant or not. Whether the plaintiffs have challenged the order of AC or not. The contention of plaintiffs and defendant could be adjudicated at the time of trial. Now the court has to consider only prima facie case. Now the question arises whether the plaintiffs have made out prima facie case or not.

12) The contention of plaintiffs and defendant could be adjudicated at the time of trial. The contention of plaintiffs is that, the defendant with malafide intention to defraud right of plaintiffs and to create multiplicity of proceedings is making hectic attempts to alienate the schedule property and to create 3rd party rights by ignoring the right of plaintiffs. Since defendant is making hectic arrangements to dispose off the suit property behind back of plaintiffs and to deprive right of plaintiffs, if temporary injunction order is not granted, it would lead to multiplicity of proceedings and by that time plaintiffs 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 plaintiffs, I answer **Point No.1 is in Affirmative.**

13) **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.

14) Prima facie the plaintiffs have proved their case with respect to suit schedule property. Under the circumstances when the plaintiffs have proved their prima facie case at this juncture, no such irreparable loss or hardship could be inferred in favour of the plaintiffs with respect to suit schedule property. If temporary injunction order is not granted, plaintiffs 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.**

15) **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 defendant is 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 property 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 5th day of March 2026)

(ARUNA KUMARI A)

Prl.Senior Civil Judge and JMFC
Channarayapatna