

ORDER ON IA No.I

The plaintiffs have filed IA No.I U/O.39 Rule 1 and 2 R/w Sec.151 of CPC praying for an order of temporary injunction to restrain the defendants No.1 to 4 from alienating the suit schedule properties.

2. In the accompanying affidavit it is stated that the plaintiffs have filed this suit against the defendants for partition and separate possession in respect of suit schedule properties. The plaintiffs and defendants family is hindu undivided family since many years. The plaintiffs and defendants are living in hindu undivided family. The suit schedule properties are ancestral and joint family properties and in joint possession of plaintiffs and defendants. At present the khatas have been transferred in the name of 1st defendant under **Pouthivaras**. Till now there is no partition between plaintiffs and defendants family. The deceased Nanjundegowda and Gangadhara have mutated khata into their names without knowledge of plaintiff. On the said material grounds the plaintiffs have prayed this court to allow the application.

3. In pursuance of suit summons the defendants have appeared before this court but not choose to file objections. The defendants No.1 to 3 have not appeared before this court hence placed exparte.

4. Considering the case of the plaintiffs and on perusal of the materials available records the following points arise for consideration of this court for proper adjudication of the present application:

POINTS

1. ***Whether the plaintiffs have made out prima-facie case to grant temporary injunction as claimed in the application ?***
2. ***Whether the plaintiffs establish that the balance of convenience lies in favour of them ?***
3. ***Whether the plaintiffs will be put to irreparable loss and hardship if the temporary injunction is not granted ?***
4. ***What Order ?***

5. Heard the counsel for both parties on the above application. Considering the rival pleadings and materials available on record, this court answered the above points as below:

- Point No.1 : In the Affirmative.
Point No.2 : In the Affirmative.
Point No.3 : In the Affirmative.
Point No.4 : As per final order
for the following;

REASONS

6. **Point No.1 to 3:-** As these points are interrelated to each other, in order to avoid repetition of facts and findings they are taken up together for common discussion.

7. On perusal of materials on record, it appears that plaintiffs are claiming the suit schedule properties as ancestral and joint family properties of plaintiffs and defendants. At present the khatahs of suit schedule properties are standing in the name of defendants No.1 to 4.

8. At this stage without going into the merits of the case by holding mini trial this court has considered the aspects of prima-facie case. It is well settled principles of law that, at the time of disposing temporary injunction application the court as to consider whether the plaintiffs have made out prima-facie case for granting interim relief.

9. While deciding the question of prima-facie case, it is generally open for the court to record a decision on merits of the pleas taken in the suit and those findings will not have any binding effects on the parties at the time of final hearing of the case and it shall always be opened to raise their respective contentions and it is for the court to decide according to law at that stage.

10. If suit schedule properties are alienated by the defendants during the pendency of the suit it will leads to multiplicity of proceedings. Hence considering the facts of the case this court is of the opinion that at the stage the plaintiffs have made out prima-facie case in their favour coupled with balance of convenience and irreparable loss/injury. Till the conclusion of trial it is necessary to protect the suit schedule properties from alienation or transfer. Otherwise, the rights of the parties to the suit will be infringed and it will lead to multiplicity of the litigation. At this stage if injunction is refused the plaintiffs will suffer more. On the other hand this court does not find any loss going to be caused to the defendants by granting of an injunction. **With these observations, this Court answers Points No.1 to 3 in the Affirmative.**

11. **Point No.4:-** In view of findings on the above Points No.1 to 3 and also considering the materials on record, this court proceeds to pass the following:

ORDER

I.A.No.I filed by the Plaintiffs under order 39 Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

The defendants are hereby temporarily restrained from alienate, sale, lease, gift, hypothecation the suit schedule properties until disposal of this suit.

No order as to costs.

For plaintiff evidence by: 20.11.2025.

*(Dictated to the steno, transcribed and typed by her, corrected signed & then pronounced by me in the open Court on this **14th day of October 2025.**)*

Sd/-

**(MADHUSHREE R.M.)
III Addl. Civil Judge & JMFC,
Channarayapatna.**

