

KAHS310003272022



**IN THE COURT OF PRINCIPAL CIVIL JUDGE AND J.M.F.C. AT**  
**HOLENARASIPURA**

PRESENT:- Smt. Chethana. B.A., LL.B.,  
Prl. Civil Judge & JMFC,  
Holenarasipura.

**Dated this the 01<sup>st</sup> day of December – 2025**

**O.S.No:134/2008**

Plaintiff/s

1. N. Rani,  
W/o. Late. Umesha,  
Aged about 35 years,
2. K.N.Nandini,  
D/o. Late. Umesh,  
Aged about 30 years,

Both are R/at:  
Kamasamudra Village,  
Halekote Hobli,  
Holenarasipura Taluk

**(By Sri. B.N.R, Adv.)**

V/s.

Defendant/s

1. Chikkamallamma  
Dead by Lr's,
2. Karthik.

S/o. Late Umesh,  
Aged about 27 years,  
R/at: Kamasamudra Village,  
Halekote Hobli,  
Holenarasipura Taluk.

3. M.Shivaraj,  
S/o. Late Mylariah,  
Aged about 75 years,
4. Janaki (Dead)
5. Shivappa,  
S/o. M.Shivaraj,  
Aged about 38 years,
6. Anusuya,  
D/o. M.Shivaraj,  
Aged about 35 years,

Defendant Nos. 1 to 6 are R/at:  
Kamasamudra Village,  
Halekote Hobli,  
Holenarasipura Taluk.

7. Bhagyamma,  
W/o. Ananda,  
Dead by Lr's
- 7(a) Latha K.A.,  
W/o. Arun Kumar,  
Aged about 38 years,
- 7(b) Divya K.A.,  
W/o. Late. Sathyanarayana C.V.,  
Aged about 35 years,

Defendant Nos.7(a) and (b) are R/at:  
Near Panchramanna's house,  
Near M.S.I.L Bar,  
K.R.Nagar Road,  
Kallukunike, Hunasuru Town.

8. Leelavathi,  
W/o. Shivaram,  
Aged about 48 years,  
C/o. Chayadevi, Sunnada Beedi,  
Channapattana,  
Ramanagara District.
9. Virupakshamma,  
W/o. Ashwatha,  
Aged about 42 years,  
R/at: Uppara Beedi,  
Holenarasipura.
10. Dhanalakshmi,  
W/o. Venkatesh,  
Aged about 40 years,  
R/at: Dodda Masidi Road,  
Hunasuru, Mysore District.
11. Chayadevi @ Lakshmi,  
W/o. Venkataramaswamy,  
Aged about 38 years,  
R/at: Sunnada Beedi, Channapattana,  
Ramnagara District.
12. H.Ranganna @ Rangaswamy,  
S/o. Sunnada Thimmaiah,  
Aged about 70 years,  
R/at: Hassan-Mysore Road,  
Near Water Tank,  
Holenarasipura.
13. Yogisha,  
S/o. Nagaiah,  
Aged about 35 years,
14. M.S. Kumara,  
S/o. Seeniah,  
Aged about 35 years,

15. Mamatha,  
W/o. N.Ramachandra,  
Aged about 30 years,

Defendant Nos.13 to 15 are R/at:  
Mavinakere Village,  
Halekote Hobli,  
Holenarasipura Taluk.

16. Sujatha,  
W/o. K.G.Shivanna,  
Major,  
R/at: Kamasamudra Village,  
Halekote Hobli,  
Holenarasipura Taluk.

**(Sri. P.D.D. Adv. for Def. Nos.1 &  
2, Sri. H.S.A. Adv. for Def.  
Nos.3,6,5,8 to 11, Sri. J.N. Adv.  
for Def.No.4, Sri. R.S. Adv. For  
Defe. Nos.13 to 15)**

**IA No. LI**

Applicant/s : Anusuya

V/s

Opponent/s : N Rani and others

**ORDER ON APPLICATION FILED UNDER ORDER XXXIX RULE  
1(a) OF C.P.C.**

This Interim application No.LI is filed by the applicant/defendant No.6 under order XXXIX Rules 1 and 2 of C.P.C, seeking to restrain the plaintiffs or anybody claiming

under them from alienating the suit schedule properties to anyone in any manner till the disposal of the suit.

**2.** In the affidavit annexed to I.A.No.LI, it is stated that, eventhough the suit is pending consideration, the plaintiffs are trying to illegally alienate the suit schedule properties. The suit schedule properties are the joint family properties. Therefore, it is necessary that, the plaintiffs have to be restrained from alienating the schedule properties till the disposal of the suit. Otherwise, the applicant would be put to irreparable loss and injury. Hence, it is prayed to allow the application.

**3.** The plaintiffs have filed objections to the application by contending that, the plaintiffs have filed this suit seeking the relief of partition and both the parties have lead evidence. The plaintiffs and defendant Nos.2, 3, 5 to 11 have compromised the matter in the presence of elders of the family and also filed compromise petition. The defendant No.6 who is the applicant herein has also signed the said compromise by understanding it's terms. Even the defendant No.6 has signed the ordersheet by agreeing to the terms of the compromise. The parties to the said compromise petition have agreed to pass orders on the

compromise petition. The plaintiffs never tried to alienate the suit properties. After institution of the suit, the defendant No.6 and her father along with others have executed a Registered Partition Deed pertaining to suit schedule properties on 21.02.2009 without considering the right of the plaintiffs in the said properties. A registered Gift Deed has been executed on 18.04.2013 in favour of defendant No.6 from his father M.Shivaraju. On 28.04.2015 the defendant No.6 and other defendants have executed registered Partition Deed by leaving out the plaintiffs. The defendant No.6 has suppressed all these facts and filed this suit. On these grounds, it is prayed to dismiss the application.

**4.** The defendant No.12 has filed objections by contending that, the plaintiffs and defendant No.6 have colluded with each other and have filed this application. Earlier the plaintiffs and defendants had filed a compromise petition by leaving out this defendant. The defendant No.12 has filed objections to said compromise petition. The defendant No.12 is ready to enter into compromise in relation to Item No.2 of the schedule property. With the intention of cheating the defendant No.12, the plaintiffs and defendant No.6 have colluded. A suit is pending

consideration in the court of Addl. Civil Judge and JMFC as per O.S.No.199/2010 pertaining to the property measuring 0.16 guntas in suit survey number. The defendant No.12 is in possession of suit B schedule property and has also grown paddy. On these grounds, it is prayed to dismiss the application.

5. Heard the arguments of Learned counsel appearing for the plaintiffs, defendant Nos.6 and 12, perused plaint, written statement, application, objections and documents on record.

6. The following points arise for the consideration of this Court:

**:POINTS:**

- 1. Whether the applicant has made out prima-facie case against the plaintiffs in respect of suit schedule properties in order to grant temporary injunction as prayed for?***
- 2. Whether the applicant further proves that, Balance of convenience lies in her favour?***
- 3. Whether irreparable loss or injury would be caused to the applicant if this application is not allowed?***
- 4. What order?***

7. After hearing the arguments and on careful perusal of records, the findings of this Court to the above points are as

follows:-

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:

**: R E A S O N S :**

**8. POINT Nos.1 to 3:-** The contents of affidavit annexed to the application filed by applicant and the objection filed by plaintiffs and defendant No.12 are already narrated herein above. In support of the contentions of the applicant, she has relied upon the RTC extracts pertaining to the property in Sy.No.34/2 of Mavinakere Village. In support of the contention of the plaintiffs, they have relied upon copy of Gift Deed dated 18.04.2013, Partition Deeds dated 28.04.2015 and 21.02.2009.

**9.** This is the suit filed by the plaintiffs seeking the relief of partition and separate possession over the suit schedule properties along with other reliefs. In this suit, the plaintiffs have sought 1/27th share over the suit schedule properties. There is no dispute about the relationship of the parties. Whether the suit schedule properties are the joint family

properties or not, cannot be decided without the trial being held. Litigation takes some time and that if certain changes take place in the character of the properties under dispute during the interim period, it would give rise to further litigation and some times render the relief itself infructuous. Perusal of the documents produced by the parties with regard to the assertion of the parties in relation to this application *prima-facie* shows that, certain suit schedule properties have been parted with during the pendency of this proceedings. This matter is of the year 2008. When such being the case, if the suit schedule properties are encumbered, alienated, built upon or if third party rights are permitted to be created during the interim period, then the situation might become totally irreversible by the time the Court passes final orders and it may also cause further delay in disposal of the matter. In this case, upon perusal of the documents, it shows that, the applicant has made out *prima-facie* case and balance of convenience lies in her favour and she would be put to irreparable loss and injury if this application is allowed. Therefore, the applicant has made out grounds to allow the application. Accordingly, point Nos.1 to 3 are answered in the **Affirmative**.

**10. Point No. 4:** For the reasons stated while discussing Point

Nos.1 to 3, this Court proceed to pass the following;

**:ORDER:**

The application i.e., I.A.No.LI filed by applicant/defendant No.6 under order XXXIX Rule 1 and 2 of CPC is hereby allowed.

The plaintiffs or anybody claiming under them are hereby restrained by way of temporary injunction from alienating the suit schedule properties to anyone in any manner till the disposal of the suit.

No order as to costs.

(Dictated to the stenographer directly on to the computer typed by her, transcript revised, corrected and then pronounced by me in the open court on this the **1<sup>st</sup> day of December - 2025**)

**(Smt. Chethana)**  
Prl. Civil Judge & J.M.F.C.,  
**Holenarasipura**