



**IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,  
RANEBENNUR.**

**Dated on this the 02<sup>nd</sup> day of March 2026.**

**Present: Sri. ADITHYAKUMAR H.R, B.A.LL.B.**

**Prl. Civil Judge & JMFC.,Ranebennur.**

**ORIGINAL SUIT NO.390/2025**

**Plaintiff :** Drakshayini D/o Kuruvatteppa Maganur

**(Rep. By Sri. J.I.K. Advocate)**

**V/s**

**Defendants:** Kenchamma W/o Kuruvatteppa Maganur  
& others.

**(D-1 Rep. By Sri. S.J.G. Adv.)**

**(D-3 to 6 Rep. By Sri. S.A.K. Adv.)**

**(D-2 Exparte)**

**I.A. NO. I CAUSE TITLE.**

**Plaintiff/**

**Applicant :** Drakshayini D/o Kuruvatteppa Maganur

**-Vs.-**

**Opponents/**

**Defendants:** Nagappa S/o Rangappa Adiveppeppanavar  
& others.



**ORDER ON IA NO. I**

The plaintiff has filed this application under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC, seeking to restrain Defendants No. 3 to 6, or anyone claiming through them, from alienating, creating any charge or interest, or executing any documents in favor of any party over the suit schedule property until the disposal of the suit.

**2. Brief facts of the case necessary for the purpose of disposing the application are as under:**

The plaintiffs have filed this suit seeking partition, separate possession of her 1/3rd share and other consequential reliefs. *In brief*, the plaintiff and Defendants No. 1 & 2 are joint family members, with one Kuruvatteppa as their propositus, and the suit property forms part of their ancestral joint family property. No partition has ever taken place. The defendant No.2, taking advantage of his name in the revenue records and without the knowledge of the plaintiff, allegedly mutated the suit property in favour of defendants No.3 to 6. Since the defendants have refused to effect a partition and denied the plaintiff rights, the plaintiff filed the present suit.



**2.1.** In support of the application, Plaintiff has sworn an affidavit reiterating the averments in the plaint and further contended that Defendants No. 2 to 6 colluding each other have entered their name in the revenue records to the portion of the suit property, are attempting to alienate it to create third-party rights. If such alienation occurs, the very purpose of filing this suit would be frustrated, and the plaintiff would suffer irreparable loss. Conversely, no harm or prejudice would be caused to the defendants if the interim order sought by the plaintiffs is granted. On these grounds, the applicants pray that this Court allow the application as filed.

**3.** Defendants No. 3 to 6, through their common counsel, have filed a common written statement, which is adopted as their objection to the application. They contend that the application is neither maintainable in law nor on facts, that the plaintiff has not approached the Court with clean hands, and has failed to demonstrate a prima facie case for the grant of a temporary injunction. They further assert that the balance of convenience does not favor the plaintiff. It is specifically contended that the suit is bad for non inclusion of all the joint family properties and the suit is liable to be dismissed. It is further contended that, they have



purchased the suit property and mutation entries were effected accordingly. They have been in exclusive possession and enjoyment of the portion of the suit property. On these grounds, the defendants pray for the rejection of the application.

**4.** Heard the counsel for both side. Perused the records.

**5.** After carefully analyzing and upon the perusal of the plaint, affidavit sworn to the application and the objection put forth by the defendants and other materials available on record, the following points arise for my consideration.

**I. Whether plaintiff has made out a prima facie case to grant the relief as sought for in the IA-I.?**

**II. Whether plaintiff proves that balance of convenience lies in her favour as regards the IA-I.?**

**III. Who will be put to irreparable loss and injury if the IA-I is rejected or granted.?**

**IV. What order.?**

**6.** After giving its anxious consideration and after carefully perusing the documents produced at this stage of the matter, this court answers the afore raised points as under:



**Point No.1 : In the affirmative.**  
**Point No.2 & 3 : In the affirmative.**  
**Point No.4 : As per final order for the following;**

**:: REASONS ::**

**7. Point No.1:**

The plaintiff seeks to invoke the provisions of Order XXXIX Rules 1 and 2 of the Civil Procedure Code. On perusal of the prayer made in IA-I, it is evident that the plaintiffs' case falls within **Clause (a)** of Order XXXIX Rule 1, which verbatim reads as follows:

*"Where in any suit it is proved by affidavit or otherwise:- (inter alia).*

***(a)** that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or."*

This Court considers that the relief sought in this application falls within the ambit of **Clause (a)**, as the clause is intended to protect the applicant from damage, alienation, or wrongful sale of the suit property. Since the plaintiffs seek to restrain the defendants from alienating the property or creating any third-party interest, it is clear that their apprehension is that the defendants' actions, if not



restrained, would cause injury to their lawful rights. It is, however, settled that to maintain this application, the plaintiffs must first establish the existence of a prima facie case in their favor.

**7.1.** It is also necessary to clarify that before granting a temporary injunction, the Court must be satisfied that the plaintiff has a prima facie case. This does not require a detailed examination of the merits or a conclusion that the plaintiff is likely to succeed. The Court only needs to ascertain that, on the face of it, the applicant has a case that requires consideration and is not doomed to fail due to any apparent defects.

**7.2.** Keeping the above principles in mind, the Court now examines the documentary evidence on record. It is evident that the plaintiffs base their prima facie case on the suit schedule property on the existence of a joint family comprising herself and Defendants No. 1 & 2. She further contend that the defendants No.3 to 6 fraudulently have effected their names in the revenue records to the portion of suit property and, during the pendency of this suit, are attempting to alienate it to create third-party rights.

**7.3.** Defendants No. 3 to 6, who contested the application, do not dispute the relationship between the parties. Though they have



denied the factum of fraud or misrepresentation, they have admitted that they have purchased the portion of the suit property and revenue records were effected in their names. Their contention is that the property was alienated for the benefit of the joint family, and they are bona fide purchasers and the suit is bad for non inclusion of all the joint family properties to the common hotchpot and the plaintiffs have no right to maintain this suit, which they claim is liable to be dismissed.

**7.4.** In these circumstances, it is pertinent to note that since this is a suit for partition and separate possession, the rights and shares of the plaintiff can only be determined through a full-fledged trial. The defendants themselves have admitted that they purchased a portion of the suit property. Their contention that the alienation was for the benefit of the joint family and non inclusion of other existing joint family properties are matter to be decided at trial and cannot be considered at this stage. The documents on record establish a prima facie case for the plaintiffs and indicate the existence of triable issues.

**7.5.** The primary purpose of granting interim relief is to preserve the subject matter in dispute until the legal rights and conflicting claims of the parties are adjudicated. In other words, the



object of an interim order is to devise a workable arrangement, balancing the potential injury or prejudice to the plaintiffs if relief is refused against the potential injury or prejudice to the defendants if relief is granted. At this stage, without expressing any view on the merits of the case, the Court is satisfied that the plaintiff has established a prima facie case in their favor. Accordingly, Point for Consideration No. (i) is answered in the **Affirmative**.

### **8. Points No.2 and 3:**

The second condition for granting an interim injunction is that the balance of convenience must favor the applicants. In other words, the Court must be satisfied that the comparative hardship, mischief, or inconvenience likely to be caused to the applicant by refusing the injunction would be greater than the hardship, mischief, or inconvenience likely to be caused to the opposite party if the injunction were granted.

**8.1.** The existence of a prima-facie case alone does not entitle the applicant to a temporary injunction. She must further satisfy the Court on the third condition by demonstrating that they would suffer irreparable injury if the injunction is not granted, and that no other adequate remedy is available to protect them from the



consequences of the apprehended injury.

**8.2.** As already discussed, the plaintiff has made out a prima facie case and raised triable issues. The apprehension of alienation of the suit property by Defendants No.3 to 6, in whose names the portion of the property currently stands, cannot be ruled out, as such alienation could result in multiplicity of proceedings and create third-party interests. Though the application is restricted only against defendants No.3 to 6, since other portion of suit property has been standing in the name of other defendants, they are also to be restrained from making any alienation or creating any charge until disposal of the suit.

**8.3.** Until the conclusion of a full-fledged trial, this Court cannot accept the contentions of the defendants. Accordingly, the rights and shares of the plaintiffs are to be determined through trial, and in the meantime, the defendants shall be restrained from alienating or creating any third-party rights over the suit schedule properties to prevent multiplicity of proceedings and avoid unnecessary delay in disposal of the suit.

**8.4.** In these circumstances, this Court is of the opinion that if IA No.1 is rejected, greater mischief and hardship will be caused to



the plaintiff compared to the mischief and hardship that the defendants would suffer if IA No.1 is allowed. Considering all these aspects, the Court finds that if the application is rejected, the plaintiffs will be put to irreparable loss and hardship, which cannot be compensated in terms of money. Hence, the Court has answered Points No.2 and 3 in the **affirmative**.

**9. Point No. IV:**

For the foregoing reasons and finding given by this court on Point No. I to III, this court proceeds to pass the following:

**ORDER**

**“IA No. I filed by the plaintiff U/O 39 Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.**

**Defendants, their legal representatives, agents, servants or anybody acting on their behalf are hereby temporarily restrained from alienating or creating any charge or third party rights in the suit schedule properties till the disposal of the suit.**

**No order as to cost.”**

(Dictated to the Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 02<sup>nd</sup> day of March 2026).

Sd/-  
**(ADITHYAKUMAR H.R)**  
**Prl. C.J. & JMFC Court,**  
**Ranebennur.**

**Order on IA.No.I**  
KAHV520018532025

11

OS.No.390-2025

