



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

Dated on this the 01st day of September 2026.

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

Prl. Civil Judge & JMFC.,Ranebennur.

ORIGINAL SUIT NO.416/2025

Plaintiffs : Tarun S/o Bheemesh Marata
& others

(Rep. By Sri. M.B.J., Advocate)

V/s

Defendants: Shri. Ningappa S/o Bheemappa Marata
& others

**(D-1, 2 & 4 Rep. By Sri. A.S.K., Advo.)
(D-3 exparte)**

I.A. NO. I CAUSE TITLE.

Plaintiffs/

Applicants : Tarun S/o Bheemesh Marata
& others

-Vs.-

Opponents/

Defendants: Shri. Ningappa S/o Bheemappa Marata
& others

**ORDER ON IA NO. I**

The application under consideration is filed by the plaintiffs under Order XXXIX Rule 1 and 2 R/w. Sec.151 of CPC, seeking that the defendants or anybody claiming on them to be restrained from alienating or creating any charge or interest or executing any documents in favor of anybody over the suit schedule properties till 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 the present suit seeking partition and separate possession along with consequential reliefs, contending that they and the defendants are members of a joint family. The same were originally belong to the father of defendant No.1 and after his death, by way of family partition, the suit properties fallen to the share of defendant No.1. Thus, the suit properties are the ancestral joint family properties of parties to the suit. The Plaintiffs are the wife and children of predeceased son of defendant No.1 and they also having the rights and share over the suit property. The defendants without the knowledge of Plaintiffs, have created the partition deed and trying to alienate the suit property. The defendants refused to



effect the partition. Hence, this suit.

2.1. In support of the application the plaintiff No.3 has sworn to the affidavit reiterating the plaint averments and she has further contended that, Defendants taking advantage of their names in the revenue records have been trying to alienate the suit properties in order to create third party rights. If that is happened the very purpose of filling this suit will be frustrated and it is the plaintiffs who will be subjected to irreparable loss if the application is rejected. On the other hand, no harm or prejudice will be caused to the defendants if the interim order as sought for by the plaintiff is granted. On these grounds, the applicants seek that this Court be pleased to allow the application as prayed for.

3. Defendants No.1, 2 & 4 filed written statement adopting the same as objection to the application contending that, the present application is neither maintainable in law nor on facts; the applicants have not come before the court with clean hands and the plaintiffs failed to show their prima facie case to grant the temporary injunction and also the balance on connivance is not in favour of the plaintiffs. It is specifically contended that, the Plaintiffs have received the money and



relinquished their rights over the suit properties. When they were called for registration of the partition deed, they were remained absent to execute the partition deed. Suppressing these facts have filed this false suit. Upon these grounds the defendants sought for rejection of the application.

4. Heard the counsel for the either side.

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.

POINTS

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

II. Whether plaintiffs prove that balance of convenience lies in their favour as regards the IA-1.?

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 provision that the Plaintiff seeks to invoke here is Order XXXIX Rule 1 and 2 of Civil Procedure Code. After perusal of the prayer sought in the IA-I it is needless to state that the case of the Plaintiffs, as regards the IA-I falls within **Clause (a)** of Order XXXIX Rule 1 of Civil Procedure Code, 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.”*

The reason why this court considers that the relief sought by way of this application falls within the ambit of **clause (a)** is because, the said clause seeks to protect the applicant from two apprehensions either damage, alienate or wrongful sale of the suit properties; and because the relief sought by the



plaintiff by way of this application is to restrain the defendants from alienate or create any third party interest, it becomes obvious that the apprehension of the plaintiff is that the activities of the defendants if not curtailed would cause injury to the plaintiff's lawful rights. Needless to state in order to successfully maintain this application the plaintiff should first demonstrate existence of *prima facie* case in her favor.

7.1. At the very outset it would be incumbent upon this court to clarify that, the rule that before the issue of a temporary injunction, the court must satisfy itself that the plaintiff has a *prima facie* case, it does not mean that, the court should examine the merits of the case closely and come to a conclusion that the plaintiffs have a case in which they are likely to succeed. All that, the court has to see is that on the face of it the person applying for an injunction has a case which needs consideration and which is not bound to fail by virtue of some apparent defects.

7.2. Keeping the above principles in mind, let this court turn to the documentary evidence available on record. With these aspects in mind when the records are perused, it becomes evident that the plaintiffs claim their *prima-facie* case



on the suit schedule properties based on existence of joint family among plaintiff and defendants. Further also contended that, the suit properties are ancestral in nature and the Plaintiffs having the share. The demand of partition was refused by defendants and now during pendency of this suit trying to alienate the suit property in order to create third parties rights.

7.3. Defendants who contested the application have not disputed their relationship with the plaintiffs. They have also admitted the rights and share of Plaintiffs contending that, the Plaintiffs had received money relinquishing their rights. This admission prima-facie proves the rights and share of the Plaintiffs.

7.4. The sole contention of defendants is that, though the Plaintiffs have received money, they have remained absent from execution of partition deed and suppressing such true facts have filed this false case. However, the question of rights, share and alleged relinquishment of share claimed by either side are matter of trial and the same cannot be determined in the present application.

7.5. In these circumstances it is appropriate to point out here that, since it is the suit for partition and separate



possession, the rights and share of parties have to be determined by way of full pledged trial. The dispute with regard to nature of the suit property are matter of full pledged trial and the same cannot be considered at this stage to answer this application.

7.6. The primary purpose for granting interim relief is the preservation of the things in dispute till legal rights and conflicting claims of the parties before the court are adjudicated. In other words, the object of making an order regarding interim relief is to evolve a workable formula to the extent called for by the demands of the situation, keeping in mind the pros and cons of the matter and striking a delicate balance between two conflicting interests i.e., injury and prejudice, likely to be caused to the Plaintiffs if the relief is refused; and injury and prejudice likely to be caused to the Defendants if the relief is granted. As such at this stage of the suit, without giving any expression on merits of the case, it is the firm opinion of the Court that, the plaintiffs have succeeded to make out a *prima-facie* case in their favour. Wherefore this court finds no hesitation to answer Point for Consideration No.(i) in the **Affirmative.**



8. Points No.2 and 3:

The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. In other words, the court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

8.1. The existence of the prima-facie case alone does not entitle the applicant for a temporary injunction. The applicants must further satisfy the court about the third condition by showing that he will suffer irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to them by which they can protect themselves from the consequences of apprehended injury.

8.2. As already discussed the plaintiffs have made a prima facie case for triable issues. Further, the apprehension of alienation of suit properties by defendants in whose names the suit properties are standing cannot be ruled out which would cause multiplicity of proceedings and create third parties interest. Until and unless competition of full pledged trial this



court cannot presume the case as contended by the defendants. Hence, the rights and shares of the plaintiff has to be determined by way of trial and till completion of the trial, the defendants to be restrained from alienating or creating any 3rd party rights over the suit schedule properties to avoid the multiplicity of proceedings and to curtail the unnecessary delay in disposal.

8.3. In these circumstances this Court is of the opinion that if IA No.1 is rejected more mischief and hardship will be caused to the plaintiff when compared to the mischief and hardship which will be suffered by Defendant if IA No. I is allowed. By considering all these aspects this Court is of the opinion that if the application is rejected, the Plaintiff will be put to irreparable loss and hardship and the same can not be compensated in terms of money. Hence this Court has answered Points No.2 and 3 in the **Affirmative**.

9. Point No. 4:

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 plaintiffs 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 property till the disposal of the suit or until further order.

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 01st day of September 2026).

**(ADITHYAKUMAR H.R)
Prl. C.J. & JMFC Court
Ranebennur.**