

**IN THE COURT OF THE  
SENIOR CIVIL JUDGE AND J.M.F.C.,CHITTAPUR**

Present: **Sri. SANTOSH S PALLEDH**, B.A., L.L.B.  
(Spl), Senior Civil Judge and JMFC, Chittapur

**O.S. NO.148/2011**

**DATED THIS THE 01<sup>st</sup> DAY OF APRIL, 2023**

PLAINTIFF/S:- Smt. Hampamma W/o Sidlingappagouda,  
Age:63Years, Occ:Agri & House-hold affairs,  
R/o Abbe Tumkur, Tq. & Dist. Yadgir.  
Since dead, represented by her LR's

- (1a) Sri. Santosh Patil S/o Late Sri. Sidhalingappa Goda,  
& Late Smt.Hampamma, Age:48years, R/o #12/1,  
Jangma Kutira, 1<sup>st</sup> floor, 3<sup>rd</sup> main ramamohanapuram,  
Bangaluru-560021.
- (1b) Sri. Mahes Patil S/o Late Sri. Sidhalingappa Goda,  
& Late Smt.Hampamma, Age:45years, R/o No.146,  
Abbe Tumkur, Taluk & District Yadgir.
- (1c) Smt. Pooja Patil S/o Late Sri. Sidhalingappa Goda,  
& Late Smt.Hampamma, Age:29years, R/o H.No.3-8-102,  
Beroon Quilla Raichur.
- (1d) Sri. Vishal Sharanagouda Biradara S/o Late Sri. Sharan  
Ggouda, Age:27years, R/o H.No.3-8-102, Beroon Quilla  
Raichur.

(By Smt.L.B. Advocate)

**Vs.**

DEFENDANT/S: 1. Venkangouda @ Venkatgouda S/o Sugangouda,  
Age:56years, Occ:Agri. R/o Nalwar, Tq.Chittapur.

2. Basawarajgouda S/o Sugangouda,  
Age:51years Occ:Agri, R/o Nalwar, Tq.Chittapur.

2a. Vishalakshmi W/o Siddramreddy Patil,  
R/o Kadbur, Chittapur Taluk, Gulbarga District.

2b. Sugmma W/o Mallareddy, R/o Koppur, Devadurga  
Taluk, Raichur District.

2c. Rashmi W/o M P Hallamani, R/o Naikal, Shapur  
Taluk, Yadgir District.

3. Mallangouda S/o Sugangouda, Age:49years,  
Occ:Agri, R/o Nalwar Tq.Chittapur.
4. Saramma W/o Sharanappagouda, Age:60years,  
Occ:House-hold affairs, R/o Raichur.
5. Rajamma W/o Venkangouda, Age:50years,  
Occ:Household, R/o Nalwar, Tq.Chittapur.
6. Sharangouda S/o Venkangouda, Age:28years,  
Occ:Agri, R/o Nalwar, Tq.Chittapur.
7. Indramma W/o Basawarajgouda, Age:42years,  
Occ:House-hold, R/o Nalwar, Tq.Chittapur.
8. Vishwanthreddy S/o Basawarajgouda,  
Age:26years, Occ:Agri, R/o Nalwar, Tq.Chittapur.
9. Nagamma W/o Mallangouda, Age:42years,  
Occ:House-hold, R/o Nalwar, Tq.Chittapur.
10. Sugangouda S/o Mallangouda, Age:24years,  
Occ:Agri, R/o Nalwar, Tq.Chittapur.
11. Shilaja W/o Vishwanathreddy, Age:38 years,  
Occ:House-hold, R/o Nalwar, Tq.Chittapur,  
Now at Yeroor, Tq.Gangawathi Dist.Koppal.
12. Veena D/o Vishwanathreddy, Age:11years,  
Minor.
13. Vinitha D/o Viswanathreddy, Age:9years, Minor  
Both the minors under guardianship of their natural  
Mother shailaja W/o Vishwanathreddy, Defendant  
No.11.
14. Sri. Pandithrao S/o Bhimsha Karagar, Age:42years,  
Occ:Agriculture, R/o H.No.E/113, Kusanur, Taluk  
& District Gulbarga.
15. Sri. Bhimsha S/o Kotalappa Karagar, Age:75years,  
Occ: Agriculture, R/o H.No.E/113, Kusanur, Taluk  
& District Gulbarga.

16. Sri. Kotalappa S/o Bhimsha Karagar,  
Age:41years,Occ:Agriculture,  
R/o H.No.E/113, Kusanur, Taluk  
& District Gulbarga.

(Defendant No.1 to 3, 5 to 10 By Sri. IBA. Advocate  
D.4 by Sri. SSA Advocate, D.11 to 13 SBK Advocate  
D.14 to D.16 by Sri.VBP Advocate)

**PARTIES TO IA No.22**

Santosh Patil (LR's of Plaintiff)

& Ors

Applicants/Plaintiffs

**V/s**

Venkangouda @ Venkatgouda

Opponents/Defendants

& Others.

**ORDERSON I.A. No.22 FILED U/O XXIX RULE 1 & 2  
OF CPC:**

1. This application is filed by plaintiffs seeking to restrain the defendants from alienating the suit schedule K-properties in any manner.
2. It is the case of plaintiffs that the suit is filed for partition and during the pendency of suit, defendants have already sold some of the properties and trying to enter into agreements. It is to deprive the right of the plaintiffs and to harass them. Already the purchasers are added in this suit, if the application is not allowed there will be no end and it amounts to multiplicity of proceedings. Hence seeks to allow the application.
3. In response to this, the defendants filed objections contending that the original plaintiff Hampamma has already received her share by way of compromise in the Apex Court and

there is no right to ask share once again, hence seeks to dismiss the application.

4. Heard arguments from both sides. The following points arise for my consideration as under :

1. **Whether plaintiffs prove the prima facie case lies in their favor?**
2. **Whether they further prove that balance of convenience lies in their favor and irreparable loss and hardship would be caused if injunction is not granted?**
3. **What order?**

My findings to the above points are as under :

**Point No.1: In the affirmative**

**Point No.2: In the affirmative.**

**Point No.3: As per final order for the following:**

#### **REASONS**

5. **Point No.1 and 2** : In this case the suit is filed for partition contending that plaintiff and defendant No.1 to 3 constitute joint family and they are having share. It is opposed by the defendants contending that the plaintiff has relinquished the right in the suit property at the time of partition in the year 1985 and now they are estopped.

6. It is contended that plaintiff Hampamma had got her share in the compromise before Hon'ble Apex Court. On the other hand it is also argued that the matter is pending before land tribunal for surrendering excess land. In counter plaintiff counsel argued

that no harm would be caused if they are restrained from alienating the suit property.

7. It is noticed that the defendants counsel has produced copy of proceedings before the land tribunal where in it is observed that the wife of Vishwanath Reddy who is defendant No.8 in this case has filed application to the tribunal stating that their family holds total 319 acres 6 guntas in Nalwar and Belawadagi Village. Thereby sought to dispose the excess land in accordance with law. In this regard there is objection filed and matter is still pending as it could be seen from the order sheet copy produced. It is also noticed that the plaintiffs have also appeared through advocate and filed objections to the application of said Shailaja.

8. It is pertinent to note that at this stage what could be seen is that what is the hardship to be caused if injunction is not granted. Since there is a rival contention and for proving their contentions matter must go for trial. The order sheet of this case would show that as many as 24 applications are filed and it is noticed that many parties are added subsequently. So the matter has not ripened much and the cross examination of PW.1 is yet to be completed. Under such circumstances if there is any relinquishment or compromise, it is to be decided in what way it is a hurdle to the case of plaintiffs. At this stage if defendants

are restrained from alienating suit property it will only curtail the further scope of alienation and will not affect their possession or status to the property. No harm would be caused by that. On the other hand if injunction is refused it will give opportunity to change the nature of the property and from hand to hand. This will add hardship to plaintiffs as they have to add the parties and fight more litigations. As such at this stage I am of the opinion that prima facie case and balance of convenience, irreparable loss and hardship, points favor plaintiffs. Thereby I answer Point No.1 and 2 in the affirmative.

9. **Point No.3**. In view of my answers to point No.1 and 2 as above I proceed to pass the following:

### **ORDER**

The IA.No.22 filed U/O 39 Rule 1 and 2 of CPC is here by allowed.

The defendants, their agents acting under them are hereby restrained by way of temporary injunction from alienating, creating encumbrance on suit schedule K-properties in any manner till disposal of the suit.

However it is made clear that this order will not come in way if the land tribunal accepts some of these properties as surplus lands and the defendants are permitted to surrender those lands and this order is not barring such act.

(Dictated to the typist directly on computer, typed by her, corrected by me, then pronounced by me in the open court on this 01<sup>st</sup> Day of March, 2023)

**(SANTOSH S PALLEDH)**

Senior Civil Judge  
& JMFC Chittapur



