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KAKL200000822009



**IN THE COURT OF THE I ADDL., CIVIL JUDGE &
JUDICIAL MAGISTRATE FIRST CLASS AT
BANGARPET.**

:PRESENT:

SMT. SUKEETA S. HADLI,

B.B.A.,LL.B.,(Hons)

C/c I Addl., Civil Judge & J.M.F.C., Bangarpet.

O.S. NO.182/2009

DATED THIS 01ST DAY OF APRIL 2026

PLAINTIFF/S: Yadhavan dead by Lrs.,

(Rep by Sri.**K.M.V**, Advocate)

-V/S-

DEFENDANT/S: Venugopal dead by Lrs.,

(D1, D1(a,b,d,f) Rep by Sri.**K.M.**,

D2, D5 Rep by Sri.**K.V.P.**,

D6 Rep by Sri.**B.L.N.**,

D7 to D15 Rep by Sri.**N.M.G.**,

D3 Rep by Sri.**K.C.P.**,

D1(c,e,g,h) Rep by Sri.**M.P.R.**, Advocates)

(D4 (a to c) **Absent**)

:2:

PARTIES TO I.A.NO.37

Applicant : Narayankumar.,

-V/S-

Opponent : Yadhavan dead by Lrs.,

i.	Provision under which the application is filed	U/o 39 Rule 1 & 2 r/w Sec. 151 of CPC
ii.	Relief sought for	Temporary Injunction
iii.	The date on which the application is filed	12.01.2026
iv.	Number of the application	I.A.No.37
v.	The date on which the objection is filed by different opponents	24.02.2026
vi.	The date on which the orders were passed on the said application	01.04.2026

5

: O R D E R :

I.A. No.37 is filed by defendant No.1(b), namely Sri. Narayankumar, under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, seeking an order of temporary injunction restraining the proposed

defendant Nos.17 and 18 , who are now defendant no. 17 & 18 from selling or alienating the schedule property in favour of anybody, in any manner, pending disposal of the suit.

2. defendant No.1(b), has filed the present application along with an affidavit contending that the suit is one for partition and separate possession in respect of the suit schedule property. It is stated that the schedule property is the joint family property of the plaintiff and defendant Nos.1 to 4 and that there has been no partition among them.

3. It is further averred that defendant No.2 in the suit has executed a registered gift deed in favour of proposed defendant No.16, who is stated to be the son of defendant No.2. Thereafter, on the strength of the said gift deed, proposed defendant No.16 is said to have executed a registered sale deed in favour of proposed defendant Nos.17 and 18. It is specifically stated that though the suit is pending before this Court, such

transfer has been effected in order to deprive the plaintiff and defendant Nos.1, 3 and 4 of their lawful right and share in the suit schedule property.

4. The applicant has further stated that on the basis of the said registered sale deed dated 24.12.2025, the revenue authorities have mutated the names of proposed defendant Nos.17 and 18 in the revenue records pertaining to the schedule property. According to the applicant, taking advantage of such mutation entries, the proposed defendant Nos.17 and 18 are making hectic attempts to alienate the suit schedule property in favour of third parties.

5. It is further stated in the affidavit that if the proposed defendants succeed in selling the property during pendency of the suit, the applicant and the other sharers would be put to great hardship and irreparable injury and the same would also result in multiplicity of proceedings. The applicant contends that he has a prima facie case on the basis of the pleadings and documents

already produced in the suit, that the balance of convenience is in his favour, and that if temporary injunction is not granted, irreparable loss and injury would be caused which cannot be compensated in monetary terms. On these grounds, the applicant has sought an order of temporary injunction.

6. The property schedule shown in the application is land bearing Sy.No.102/2 measuring 7 acres 02 guntas situated at Bangarpet Village, Bangarpet Taluk, Kolar District, with boundaries mentioned therein.

7. Proposed defendant Nos.17 and 18 have appeared and filed their objections opposing the application. In the objections, they have contended that the application is not maintainable either in law or on facts and is liable to be dismissed. They have denied the allegations made in the affidavit filed in support of the application.

8. They have specifically denied the contention that the suit schedule property is joint family property of

the plaintiff and defendant Nos.1 to 4. According to them, defendant Nos.1 and 2 had jointly purchased the suit schedule property under a registered sale deed bearing document No.4747/1964-65, Book-I, Volume 129, pages 7 to 11, dated 27.03.1965 before the Sub-Registrar, Bangarpet, and therefore the property is their self-acquired property. It is their further contention that the plaintiff and defendant Nos.1, 3 and 4 never had possession over the suit schedule property.

9. They have further contended that defendant No.1, due to financial requirement, executed a registered release deed in favour of defendant No.2 under document No.2385/1984-85, dated 23.05.1984, and therefore defendant No.2 became the absolute owner of the suit schedule property. It is also stated that the said release deed has already been marked in the suit through DW.2 on 01.10.2013. On this basis, they contend that defendant No.2 had every right to deal with the property and consequently the present purchasers derive valid title.

10. They have also contended that the applicant has no locus standi to file the present application and that he cannot seek injunction against them. According to them, the plaintiffs have no right over the suit schedule property and have approached the Court without clean hands by suppressing material facts. They further contend that the application is filed only to protract and complicate the proceedings and there are no bona fides in the same.

11. They have lastly contended that if the application is rejected, no hardship would be caused to the applicant, but if the application is allowed, great hardship, injury and injustice would be caused to proposed defendant Nos.17 and 18 and a huge amount paid by them would be wasted. On these grounds, they have sought dismissal of the application with costs.

12. I have heard on both sides and perused the materials on record.

13. The points for consideration are as under:

1. Whether the applicant has made out a prima facie case for grant of temporary injunction?
2. Whether the balance of convenience lies in favour of granting temporary injunction?
3. Whether the applicant would suffer irreparable loss or injury if temporary injunction is refused?
4. What Order ?

14. The answers to the above points are:-

Points No.1 to 3: In the affirmative.

Point No.4 : As per final order.

: R E A S O N S :

15. POINTS NO.1 TO 3:- They are taken together for common discussion to avoid repetition of facts and documents.

16. At the outset, it is to be noticed that the main suit is one for partition and separate possession. The rights of the parties in respect of the suit schedule property are yet to be finally adjudicated in the suit. In such a suit, preservation of the suit property assumes great significance, because if the very subject matter of the suit is allowed to be transferred repeatedly during pendency of the proceedings, the Court may ultimately be faced with avoidable complications in working out the final decree.

17. The specific allegation in the affidavit is that during pendency of the suit, defendant No.2 executed a gift deed in favour of proposed defendant No.16 and thereafter proposed defendant No.16 executed a sale deed in favour of proposed defendant Nos.17 and 18. It is also stated that on the strength of such sale deed, mutation entries are effected in the names of the proposed purchasers and that they are now attempting further alienation. These facts, at least to the extent of the recent

sale transaction and mutation, show that the property is not static and there is a real apprehension of further dealings.

18. When the suit is one for declaration of shares and partition, the Court is required to see whether further transfer pending suit would hamper effective adjudication. In the considered opinion of this Court, the answer is clearly in the affirmative.

19. At the stage of deciding an application under Order XXXIX Rules 1 and 2 CPC, the Court is not expected to record a conclusive finding on title. The Court is only required to see whether the applicant has shown a substantial, bona fide and arguable case requiring protection pending disposal of the suit.

20. In the case on hand, the applicant asserts that the property is joint family property and forms part of the suit schedule property. The proposed defendant Nos.17 and 18, on the other hand, assert that it is the self-acquired property of defendant Nos.1 and 2 and that by

virtue of a release deed executed by defendant No.1 in favour of defendant No.2, the latter became absolute owner.

21. These rival claims themselves disclose that serious triable issues arise in the suit. The questions whether the property is joint family property or self-acquired property, whether the release deed had the legal effect claimed by the objectors, whether defendant No.2 had absolute authority to execute the gift deed, and whether the subsequent alienations are binding on the other sharers, are all questions requiring full-fledged trial. These matters cannot be conclusively decided in an interlocutory application.

22. The objection of proposed defendant Nos.17 and 18 that they have acquired valid title under a registered sale deed may be a matter of defence in the suit. But the mere production of a sale deed or mutation entry does not, by itself, conclude the rights of parties when the very character of the property is under

challenge in a pending partition suit. Revenue entries are fiscal in nature and do not confer title. Similarly, the sale deed in favour of proposed defendant Nos.17 and 18 is only derivative in nature. Their title, if any, depends upon the validity and extent of the title of their vendor. That issue is yet to be examined in the suit.

23. Further, it is significant that the transfers in favour of the proposed defendant Nos.17 and 18 are admittedly brought about during pendency of the suit. Any transfer pendente lite is subject to the result of the suit. Therefore, the contention of the proposed purchasers that the application is not maintainable merely because they hold a sale deed cannot be accepted at this stage.

24. Hence, this Court is satisfied that the applicant has made out a strong prima facie case for preservation of the property pending final adjudication.

25. One of the principal objections is that defendant No.1(b) has no locus standi to file the present application. This contention also cannot be accepted.

26. The applicant is not a stranger to the proceedings. He is already on record as defendant No.1(b) and claims an interest in the suit schedule property. The affidavit clearly asserts that the transfer in favour of the proposed purchasers affects not only the plaintiff, but also defendant Nos.1, 3 and 4. Therefore, the applicant, being a party to the suit and claiming a share or interest in the suit property, certainly has sufficient locus to seek protection of the suit property from further alienation. The substance of the prayer is to restrain further alienation of the suit property during pendency of the suit. Since the applicant is a contesting party claiming an interest in the property, the Court can certainly consider such request on merits.

27. The conduct of the parties as disclosed in the affidavit shows that during pendency of the suit, the

property has already been the subject matter of gift deed, sale deed and mutation. If at this stage further alienations are permitted, new third-party interests may be created. That would not only complicate adjudication but would also lead to multiplicity of proceedings. The parties may then be compelled to implead further purchasers, challenge further transactions, and engage in prolonged ancillary litigation.

28. Even assuming for the sake of argument that a transfer pendente lite is not void in the absolute sense, the Court still has ample power to protect the subject matter of the suit so as to prevent the situation from becoming more complicated. The purpose of temporary injunction is not merely to prevent physical dispossession. It is equally intended to prevent acts which may render the final adjudication ineffectual or seriously embarrassed.

29. In the present case, if the proposed defendant Nos.17 and 18 are not restrained and if they proceed to

alienate the property to third parties, the eventual decision in the suit may become difficult to enforce in a practical sense. Such further alienation may also result in equities being claimed by subsequent transferees. Therefore, preservation of the property in its present state is absolutely necessary.

30. The balance of convenience clearly leans in favour of the applicant.

31. If temporary injunction is granted, the only effect would be that proposed defendant Nos.17 and 18 would be restrained from further alienating the property during pendency of the suit. Their possession, if any, is not being disturbed by this order. Their substantive defence in the suit also remains completely open. Thus, no irreparable prejudice is caused to them merely because they are prevented from creating further third-party rights till disposal of the suit.

32. On the contrary, if injunction is refused and the property is further alienated, the hardship likely to be

caused to the applicant and other contesting sharers would be much greater. The subject matter of the suit would become more entangled. Fresh purchasers may come on record. Additional issues may arise. The litigation may become more complex and cumbersome. Hence, comparative hardship is decidedly greater on the side of the applicant if injunction is refused.

33. The objectors have contended that huge amounts have been spent by them and that they would suffer hardship if the application is allowed. This contention does not outweigh the necessity of preserving the property. A purchaser during pendency of a suit takes the property subject to the risks of the pending litigation. Such purchaser cannot insist on unrestricted liberty to further transfer the property when the title itself is disputed before the Court.

34. The applicant has also established the element of irreparable injury.

35. In a partition suit involving immovable property, unauthorised or disputed alienation during pendency of the proceedings may cause injury which cannot be adequately compensated in money. The right asserted in such suits is not merely monetary. It relates to proprietary interest, possession, enjoyment and eventual allotment by metes and bounds. If the property passes into the hands of successive transferees, the injury caused to the co-sharers and the prejudice to effective adjudication cannot be measured purely in terms of money.

36. The apprehension expressed by the applicant that further sale would lead to multiplicity of proceedings is neither imaginary nor remote. In fact, from the very documents placed before the Court, it appears that transactions have already taken place in succession. Therefore, the threat of further alienation is real and immediate.

37. The objectors have relied upon the sale deed of the year 1965 and release deed of the year 1984. Those documents may certainly be relevant for final adjudication. However, at the interlocutory stage, this Court cannot hold that those documents conclusively establish the absolute title of defendant No.2 and consequently of the purchasers. Equally, the Court cannot now hold that the applicant has established final title. Those issues are left open for full trial.

38. At this stage, the Court is only concerned with whether the property should be preserved until the rights are decided. On that limited question, the existence of rival documentary claims itself justifies grant of interim protection.

39. the Court has inherent power under Section 151 CPC to pass appropriate orders to preserve the subject matter of the litigation and to ensure that the final decree, if any, does not become illusory. When the facts disclose a genuine risk of further alienation of the suit

property pending adjudication, exercise of such power is fully warranted in the interests of justice. Thus, on a cumulative consideration of the pleadings, affidavit, objections and surrounding circumstances, this Court proceeds to answer **point No.1 to 3 in the Affirmative.**

40. POINT NO.4:- In the light of above discussion, I proceed to pass following.

ORDER

I.A. No.37 filed under Order XXXIX Rules 1 and 2 read with Section 151 of CPC is hereby allowed.

The defendant Nos.17 and 18, their agents, representatives or anybody claiming through them are hereby restrained by way of temporary injunction from alienating, encumbering, creating third-party interest in, or otherwise disposing of the application schedule property bearing Sy.No.102/2 measuring 7 acres 02 guntas situated at Bangarpet

Village, Bangarpet Taluk, Kolar District,
pending disposal of the suit.

It is made clear that the observations made in this order are only for the purpose of deciding the present interlocutory application and shall not influence the final adjudication of the suit on merits.

No order as to costs.

(Dictated to the **Stenographer** directly on computer, typed by her, corrected by me and then pronounced in the open Court on this **01st day of April 2026**)

(Sukeeta S. Hadli)
I Addl., Civil Judge & J.M.F.C.,
Bangarpet.