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KAKL200005862020



**IN THE COURT OF THE PRL., CIVIL JUDGE AND JMFC AT
BANGARPET**

PRESENT:

SMT. SUKEETA S. HADLI,

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

PRL., CIVIL JUDGE & JMFC., BANGARPET.

O.S. NO. 105/2020

DATED THIS THE 10TH DAY OF JUNE 2026

PLAINTIFF/S : **H.Manjunath Reddy.,**

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

-V/S-

DEFENDANT/S: **Obala Reddy and Others.,**

(D1 & 3 Rep. by Sri.**A.S.N.**,
D2 Rep. by Sri.**G.S.**,
Advocates)

PARTIES TO I.A.NO. I

Applicant : **H.Manjunath Reddy.,**

-V/S-

Opponent : **Obala Reddy and Others.,**

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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	16.07.2020
iv.	Number of the application	I.A. No.I
v.	The date on which the objection is filed by different opponents	23.03.2021
vi.	The date on which the order were passed on the said application	10.06.2026

ORDER ON I.A.No.1 FILED UNDER ORDER XXXIX RULES 1
& 2 R/W SECTION 151 OF CPC

The present application is filed by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of CPC seeking an order of temporary injunction restraining the defendants, their agents, legal representatives or anybody claiming under them from alienating the suit schedule properties pending disposal of the suit.

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2. In the affidavit accompanying the application it is stated that, the present is filed seeking relief of suit seeking partition and separate possession of his alleged share in the suit schedule properties. It is stated that the suit schedule properties are ancestral and joint family properties inherited by defendant No.1, who is the father of the plaintiff, while defendants No.2 and 3 are his sisters.

3. It is further contended that defendant No.1 is the Kartha and manager of the family. Owing to his advanced age, the plaintiff and his wife are stated to be cultivating and maintaining the suit lands and providing the usufructs to defendant No.1. According to the plaintiff, he has invested substantial amounts towards development and maintenance of the suit properties.

4. The plaintiff alleges that defendant No.1 has become hostile towards him and is attempting to create documents in favour of defendant No.2 so as to deprive him of his legitimate share. It is further alleged that defendant No.1 had earlier availed a loan by mortgaging the suit properties and that the

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plaintiff cleared the said loan amount for safeguarding the family properties.

5. The plaintiff further contends that despite repeated demands and village panchayats, the defendants have failed to effect partition. According to him, the defendants have threatened to alienate the suit schedule properties in favour of third parties and thereby defeat his rights in the joint family properties. It is asserted that unless an order of temporary injunction is granted, the defendants may transfer or encumber the suit properties and cause irreparable loss and injury to him. The plaintiff claims that he has made out a prima facie case and that the balance of convenience lies in his favour.

6. The defendant No.2 has opposed the application by filing written statement, the contents of which are treated as objections to the present application as per the memo filed.

7. The defendant No.2 contends that the plaintiff has filed the suit in collusion with the other defendants with an intention to grab the valuable property described as Item No.3

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of the suit schedule.

8. He has specifically contended that Item No.3 of the suit schedule property is the self-acquired property of defendant No.1 and that defendant No.1 has already gifted the same to defendant No.2 under a registered Gift Deed bearing No.[6544/2016-17](#) dated 16.11.2016. It is further contended that revenue records have been mutated in the name of defendant No.2 and that she has subsequently mortgaged the said property in favour of Canara Bank under a registered mortgage deed dated 11.05.2020 and obtained a loan of Rs.3,50,000/-.

9. According to defendant No.2, she is in lawful possession and enjoyment of Item No.3 property as its absolute owner and is cultivating the same. It is specifically denied that the plaintiff has invested any amount towards improvement of the property or that he cleared any loan allegedly availed by defendant No.1.

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10. The defendant No.2 has denied the allegations that defendant No.1 is attempting to alienate the properties in order to deprive the plaintiff of his share. She contends that the plaintiff has no right, title or interest over Item No.3 property and therefore is not entitled to any injunction. It is further contended that there is no cause of action for the suit and that the suit is not properly valued.

11. Heard the learned counsel for the plaintiff and the learned counsel appearing for defendant No.2. Perused the application, affidavit and objections.

12. Points for Consideration

1. Whether the plaintiff has made out a prima facie case for grant of temporary injunction?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff would suffer irreparable injury if the relief sought is refused?
4. What order?

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13. My findings to the above issues 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;

REASONS

14. Point Nos.1 to 3:- All these points being interconnected are taken up together for common discussion.

15. The suit is one for partition and separate possession. The plaintiff claims that the suit schedule properties are ancestral and joint family properties and seeks partition of his share therein. The relationship between the parties is not in dispute. The defendant No.1 is admittedly the father of the plaintiff and defendant Nos.2 and 3 are his sisters.

16. At this interlocutory stage, the Court is not expected to adjudicate finally upon the title of the parties. The Court is only required to examine whether the plaintiff has established a

bona fide and arguable claim requiring preservation of the subject matter of the suit until final adjudication.

17. A perusal of the plaint and affidavit discloses a specific assertion that the suit schedule properties are joint family properties and that defendant No.1 is attempting to alienate the same. On the other hand, defendant No.2 contends that Item No.3 is the self-acquired property of defendant No.1 and has already been gifted to her under a registered gift deed.

18. Whether the properties are ancestral joint family properties or self-acquired properties of defendant No.1 and whether the gift deed relied upon by defendant No.2 is valid and binding upon the plaintiff are matters which require full-fledged trial and appreciation of evidence. Such disputed questions cannot be conclusively decided at the stage of consideration of an application under Order XXXIX Rules 1 and 2 CPC.

19. Even assuming that the defendants are permitted to alienate the properties during the pendency of the suit, third party rights may be created, thereby complicating the issues

involved and leading to multiplicity of proceedings. In a suit for partition, preservation of the property pending adjudication assumes considerable importance.

20. The apprehension expressed by the plaintiff regarding possible alienation cannot be said to be wholly unfounded, particularly when defendant No.2 herself admits that a registered gift deed has been executed and that the property has been mortgaged to a bank. Such circumstances indicate the possibility of further dealings with the property during the pendency of the suit.

21. The balance of convenience also lies in favour of maintaining the existing state of affairs. If temporary injunction is granted, the defendants would only be prevented from alienating the property pending disposal of the suit. No substantial prejudice would be caused to them. On the contrary, refusal of injunction may result in creation of third-party interests and render the final adjudication ineffective.

22. Further, if alienations are permitted during the

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pendency of the suit, the plaintiff may be compelled to initiate separate proceedings against subsequent transferees, thereby causing irreparable injury and multiplicity of litigation.

23. Having regard to the pleadings and materials available on record, this Court is of the opinion that the plaintiff has established a prima facie case. The balance of convenience also tilts in his favour and refusal of injunction may result in irreparable injury. **Accordingly, Point Nos.1 to 3 are answered in the Affirmative.**

24. POINT NO.4 : Based upon the observation made herein above I proceed to pass the following:

ORDER

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

The defendants, their agents, servants, representatives or any person claiming through or under them are hereby restrained from alienating, transferring, encumbering or creating third party interest in respect of the suit schedule properties pending disposal of

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the suit.

Observations made herein 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**, typed by her on computer and corrected by me, then pronounced in the open Court on this day **10th day of June 2026**)

**Prl. Civil Judge and J.M.F.C.,
Bangarpet.**