

KAKL510023062025



IN THE COURT OF II ADDL. CIVIL JUDGE AND J.M.F.C.,
AT : K.G.F

Present:

Smt. Shemida.K, B.A.(Law), LL.B.,
C/c II Addl. Civil Judge and J.M.F.C,
KGF

Original Suit No.99/2025

Dated this the 29th day of July, 2026

Plaintiff : Smt. Vanaja,
D/o Late Chalapathi Naidu,
W/o A.Ravikanth Naidu,
Aged about 46 years,
R/at Jellimitta Village,
Palamner Taluk, Chittoor District,
Andhra Pradesh.

(Rep. By Sri.N.Sreenath Adv.,)

V/s

Defendants : Sri. C.Keshavan,
S/o. Late Chalapathi Naidu,
Aged about 50 years,
R/at Kannur Village,
Kyasamballi Hobli,
KGF Taluk, Kolar District.

(Rep. By Sri.K.C.Nagaraj., Adv.,)

IA No.3

APPLICANT : Smt. Vanaja.
(Plaintiff)

V/s

OPPONENT : Sri. C.Keshavan.
(Defendant)

i. Provision under which the application is filed	Under Order 40 Rule 1 r/w Sec.151 of CPC filed by the plaintiff
ii. Relief sought for	To appointment of a receiver for auctioning the usufructs of Mango Tree fruits, Tamarind tree fruits and coconut from coconut trees existing in the suit lands
iii. The date on which the application is filed	08.12.2025
iv. Number of the application	IA.No.3
v. The date on which the objections are filed by different opponents	23.02.2026
vi. The date on which the orders were passed on the said application	29.07.2026

ORDERS ON I.A.No.3

The present application is filed by the plaintiff under Order 40 Rule 1 r/w Section 151 of CPC for seeking to appoint a receiver for auctioning the usufructs of Mango Tree fruits, Tamarind tree fruits and coconut from coconut trees existing in the suit lands, in the interest of justice and equity.

2. In the sworn affidavit the plaintiff has stated that the present suit filed by her against the defendant for the relief of Partition and other reliefs with respect of suit-schedule properties. Further stated that there are mango trees, tamarind trees and coconut trees existing in the suit schedule land and they are fruit bearing trees and they were planted during the lifetime of her father. After his death the khatha of

the suit schedule lands are changed to the name of the defendant. Now the suit schedule property and its fruit bearing trees are all joint family properties and the defendant by taking advantage of standing of khatha in his name is trying to take entire fruits for his personal usage. Further the defendant is earning lakhs of rupees from the said fruits and since it is movable properties it is very difficult to assess the income. Hence appointing of receiver is very much required to auction the usufructs of said fruits and deposit the amount to the Court. Further the defendant not have any exclusive right over the suit-schedule properties. Hence prays to allow the application.

3. On the other hand, the counsel for defendant has filed objection wherein it is contended that, the present application is not maintainable either in law or on facts and denied all the averments. Further contended that the defendant has invested huge amount for the development of the suit schedule properties and he has planted Mango, Coconut Trees and digged Bore Well by investing his hard earned money by pledging his wife's Gold and also taken loan from the Banks, and he is in peaceful possession and enjoyment of the suit schedule properties. Further the plaintiff has obtained her share long back and living with her family members and the plaintiff is not having any right or share over the suit-schedule property. Further the present false suit filed by her by colluding with inimical persons of defendant with an intention to grab the valuable properties of defendant

by suppressing the true facts. Further contended that the defendant is agriculturist and he is leading his life with the income of said properties and he already leased the said Mango and Tender Coconuts few years back to other persons and accordingly the purchaser of the yield are spending money for fertilizers, medicines for the said yielding fruits and the same was harvested by them. Hence the present application is devoid of merits and if this application is allowed he will be put to great hardship and injury, on the other hand, if the same is dismissed, the plaintiff will not suffer any loss. Hence prays to reject the application.

4. Heard both the sides and perused the documents on records.

5. Now the points that arise for my consideration are:

1) Whether the plaintiff has made out grounds to allow IA No.3 with respect of proposed amendment, at this stage as prayed for?

2) What order?

6. My findings on the above points are as under:

Point No.1 : In the Negative,

**Point No.2 : As per final order
for the following:**

: R E A S O N S :

7. **POINT No.1:-** Admittedly the plaintiff has filed the present suit seeking the relief of Partition and separate possession with respect of 7 suit-schedule properties. When the matter was stood for hear on IA.No.2 the counsel for plaintiff filed a

memo not pressing the said application and filed the present application which opposed by the defendant.

8. Further it is to be noted that the counsel for plaintiff has filed the present application under Order 40 Rule 1 of CPC which deals about appointment of receiver. The said provision reads as follows:

1. Appointment of receivers. -(1) Where it appears to the Court to be just and convenient, the Court may by order,-

(a) appoint a receiver of any property, whether before or after decree;

(b) remove any person from the possession or custody of the property;

(c) commit the same to the possession, custody or management of the receiver; and

(d) confer upon the receiver all such powers, as to bringing and defending suits and for the realisation, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Court thinks fit.

(2) Nothing in this rule shall authorise the Court to remove from the possession or custody of property any person, whom any party to the suit has not a present right so to remove.

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(2) Nothing in this rule shall authorise the Court to remove from the possession or custody of property any person ¹], not being a party to

the suit], whom any party to the suit has not a present right so to remove.

The scope of said provision is regarding appointment of receiver, remove a person from property possession and manage of disputed assets. It gives discretionary power to the Court to appoint a receiver on the basis of facts and circumstances of the case. Further it protects the management of suit property from waste or damage during litigation. Generally casually such application can't be allowed and the purpose of such amendment is to speedy getting regarding estate in dispute. Further the receiver is the officer of the Court who is responsible for good faith and reasonable diligence. Further when the applicant has made out prima-facie ground in succeeding the suit, then such application can be considered. Further the conduct of the party who files such application is also important criteria while disposing such application.

9. Further the plaintiff also filed the said application under Sec.151 of CPC which deals about saving of inherent powers of the Court which reads as follows: "*Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court*". The above said section clearly shows the discretionary power of the Court to pass appropriate order in the interest of justice if there is no provision in the CPC.

10. In the application the contention of the plaintiff stated that the suit-schedule properties are their joint family properties and her father has planted Mango trees, Coconuts trees and tamarind trees which defendant is benefiting and he is earning lakhs of rupees. Since it is movable properties it is difficult to assess the income of said fruits. Hence appointment of receiver is very much required. Per contra the contention of the defendant is that already the plaintiff obtained share long back and the defendant has invested his hard earned money with respect of suit-schedule properties for its development and he already given the lease to third person who harvesting the said fruits and it is self-acquired properties.

11. On this background I have perused the record. As per the case of the plaintiff the suit-schedule properties are ancestral and joint family properties and there is no dispute regarding relationship between the parties. Already defendant filed written-statement wherein he strongly denied the case of the plaintiff and contended that item No.2 is his self-acquired property and stated regarding oral Partition/Palupatti held between their family members and also stated that some of the properties allotted to plaintiff as per Partition which she sold out, now without having any rights she has filed the present suit to grab his property. The said aspect shows the strong dispute between the parties. Since it is Partition suit the burden is more on the plaintiff to establish her case with

supportive documents. Now the stage is preliminary and yet to frame the issues.

12. The defendant in this case not disputes the existence of said trees in the suit-schedule properties and he already contended that he has leased out the properties to third parties who harvesting the same as per the scope of said provision appointment of receiver is discretionary power of the Court which is based upon facts of the case, but in the present suit the defendant fully denied the concept of joint family property. Hence it has to be established during the course of trial as there are seven items. Further the burden is also on the defendant to establish the earlier Partition and item No.2 is his self-acquired property. Hence at this stage the plaintiff not made out grounds to allow the present application as her entire case was denied by the defendant. Hence the burden is upon her to establish the case with cogent documents.

13. On considering all these aspects it is clear that the plaintiff has filed the present application without any prima-facie ground. Further whether the plaintiff will succeed in her case can't be presumed at this stage as there is strong contention of earlier Partition by the defendant. Moreover as per his objection he already leased out the suit-schedule properties to third party and they are harvesting the same. Hence if the present application is allowed, then the defendant will suffer huge loss. Therefore the present application is devoid of merits. In view of my discussions above, I am of the opinion that IA No.3 appears to be filed to drag the

proceedings. Hence it has to be rejected with heavy costs. With these observations, **I answer the Point No.1 in the Negative.**

14. Point No.2: Accordingly, I proceed to pass the following;

-:: O R D E R ::-

I.A No.3 filed by the plaintiff U/Order 40

***Rule 1 r/w 151 of CPC is hereby rejected
with the cost of Rs.500/-.***

*(Dictated to the Stenographer directly on computer and revised and corrected by
me then pronounced in the open court, this the **29th day of July, 2026**)*

Sd/-

(SHEMIDA.K)

**C/c II Addl. Civil Judge & JMFC
KGF.**