

KAKL600015282024



IN THE COURT OF PCJ AND JMFC, SRINIVASPUR

Presided by – KARN SINGH R U

Dated – 1st day of July 2026

O.S.No.125 of 2024

Plaintiff(s)

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Venkatalakshmamma,
D/o Seethappa,
W/o Anjappa,
Aged about 45 years,
R/at Poornapalli Village,
Ronur Hobli,
Srinivaspur Taluk.

(Represented by N.V.Jayaram
Gowda, Advocate)

v/s

Defendant(s)

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1. Munivenkatamma,
W/o Late Seethappa,
Aged about 80 years,
2. Narayanappa,
S/o Late Seethappa,
Aged about 60 years,
3. Chikkanarayanappa,
S/o Late Seethappa,
Aged about 55 years,

4. Venkataravanappa,
S/o Late Seethappa,
Aged about 50 years,
5. Radhamma,
D/o Late Seethappa,
W/o Nagaraja,
Aged about 43 years,
6. Bharathamma,
D/o Late Seethappa,
W/o Janarshana,
Aged about 38 years,
7. Umadevi,
D/o Late Seethappa,
W/o Bhadrappa,
Aged about 35 years,

Defendants No.1 to 7 are
R/at: Poornahalli Village
Ronur Hobli, Srinivaspu Taluk.

(D1, D2, D4 to D6 are represented by
C Sowbhagya, Advocate)

(D3 is represented by
J.N.Shankarappa Nayaka, Advocate)

(D7 remained absent. Hence, placed
ex-parte)

I.A.No.1

<u>Applicant/s</u>		Venkatalakshamma (Plaintiff)
<u>v/s</u>		
<u>Opponent/s</u>		Munivenkatamma and others (Defendants)

INTERLOCUTORY ORDER

Suit for	Partition and separate possession
Provision under which the application is filed	Order XXXIX Rule 1 and 2 of CPC, 1908
Relief sought	Not to alienate or create any encumbrance over suit schedule properties
The date on which the application is filed	13.03.2024
Number of the application	I.A.No.1
Application preferred by	Plaintiff
Date on which the objections were filed by the defendant/s	02.07.2025
Date of order	01.07.2026

1. An interim application is preferred by plaintiff, seeking temporary injunction to restrain defendants from alienating or creating any encumbrance over suit schedule property, until disposal of the suit. Applicant and opponents are plaintiff and defendants respectively and thus they are referred to in their original ranks.

Facts as per plaintiff and her contentions

2. Plaintiff states that she along with Defendants No.2 to 7 are children born to Late Seethappa and Defendant No.1. Plaintiff asserts that she along with defendants form a Hindu joint family and that suit properties are joint family properties. She states that she is entitled to 1/8th share in social properties. She further states that defendants are trying to alienate the suit property with an intention to exclude plaintiff from her share. She states that her demand for partition of suit properties was refused and therefore she has filed the suit.

3. Plaintiff agitates that defendants are trying to alienate the suit schedule property, and if not prevented, plaintiff's rights would be defeated. She filed the interim application restraining defendants from alienating the suit schedule properties until disposal of the suit.
4. Defendant no. 3 has filed written statement. Other defendants failed to file WS within time. Hence written statement of other defendants was taken as not filed.

Contentions of Defendant No.3 in written statement

5. Defendant No.3 claims that Defendant No.2 to 4, being the male members of the family, have divided the suit properties between them. Under a partition dated 03.10.1996 as A, B and C schedules. He states that Defendants No.5 to 7 and plaintiff are married daughters of the family and that they are separated from the family because of their marriage. He states that Plaintiff and Defendant No.5 to 7 having been married have settled into their matrimonial houses and therefore no longer joint family members. He states that plaintiff has no rights in suit property. He prays to dismiss the suit as well as the interim application.

POINTS FOR CONSIDERATION

- I. **Whether the plaintiff has a prima-facie case?**
- II. **Whether balance of convenience is in favor of plaintiff?**
- III. **Will the plaintiff suffer irreparable loss and injury, if temporary injunction is refused?**

My findings are as below:

Point I to III: In affirmative

REASONING

On Point I:

6. Plaintiff is a daughter in the family. If not as a joint family member, she is a class 1 heir of her deceased father. Though defendants claimed that there was a partition in the family in the year 1996, they have excluded plaintiff from the partition. The contention of defendants that due to marriage plaintiff has lost her right is not a valid contention. At this stage apart from this contention defendants do not have any other ground to object the claim of plaintiff. The contention of plaintiff appears to be valid and worthy of trial. **Hence, point number 1 is answered in affirmative.**

On Point II:

7. When plaintiff has a good case on merits, allowing defendants to alienate the property would certainly cause hardship on the plaintiff. On the other hand, defendants would not be put to any hardship if until disposal of suit, further alienation or creating third party rights is prevented. Therefore, balance of convenience lies in favor of plaintiff and not in favor of defendants. **Point II is answered in affirmative.**

On Point III:

8. If alienation is not prevented, adjudication of plaintiff's right would be become difficult. She will suffer irreparable loss if alienation is not prevented. Thus, **Point III is also answered in affirmative.**
9. Hence, I proceed to pass following order.

OPERATIVE ORDER

Interim Application No.1 filed by plaintiff under Order XXXIX Rule 1 and 2 of CPC, 1908, is allowed.

Consequently, defendants or any person claiming under them are restrained from alienating or creating any third party rights in suit properties until disposal of the suit.

(Pronounced in the open court on 1st day of July 2026)

**KARN SINGH R U
PCJ and JMFC, Srinivasapur**