

**IN THE COURT OF THE I ADDL. SENIOR CIVIL JUDGE
AND JMFC., AT K.R.PETE**

Dated This 08th Day Of October- 2025

Present : DEVARAJU H.R. BA., LLB.,
I Addl. Sr. CJ & J.M.F.C.,
K.R.Pete.

O.S.No.16/2025

PLAINTIFF/S:

Sri. Manjegowda
S/o Late Venkataramegowda
aged about 50 years,
R/o House No. 12/13,
Mahalakshmi Layout,
Mogarahalli,
T-Hosahalli post,
Belagola hobli,
Srirangapattana taluk,
Mandya district.

(By Sri.Y.G.M, Adv)

-V/s-

DEFENDANT/S:

1. Smt.Jayamma
W/o Late Venkataramegowda
aged about 65 years,

2. Sri.Shivaramu
S/o Late Venkataramegowda,
aged about 40 years,

Both are R/o
Buvanahalli village,
Kikkeri hobli,
K.R.Pete taluk,
Mandya district.

3. Smt.Mamtha
W/o Manajanna,
S/o Late Venkataramegowda,
aged about 45 years,
R/o Ankanahalli village,
Ikanahalli post,
Kikkeri hobli,
K.R.Pete taluk,
Mandya district.

(By Sri.M.N.S, Adv)

PARTIES IN I.A.NO.I

Applicant/Plaintiff:

Sri.Manjegowda,

-V/s-

Opponents/Defendants:

Smt.Jayamma and Others.

ORDERS ON I.A.NO.I

The plaintiff has filed IA No.I under Order XXXIX Rule 1 and 2 of CPC for seeking Temporary Injunction order against the defendants to restrain them from alienating the suit schedule properties to the 3rd person till pending disposal of the present suit.

SCHEDULES

- 1. The land bearing Sy.No.6/1 measuring 05 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.**
- 2. The land bearing Sy. No.6/5 measuring 13 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.**

3. The land bearing Sy. No.6/6 measuring 11.04 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

4. The land bearing Sy. No.6/7 measuring 1.08 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

5. The land bearing Sy. No.11/6 measuring 3 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

6. The land bearing Sy. No.9/12 measuring 18 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

7. The land bearing Sy. No.9/13 measuring 11 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

8. The land bearing Sy. No.9/14 measuring 11 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

9. The land bearing Sy. No.9/15 measuring 05 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

10. The land bearing Sy. No.9/16 measuring 05 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

11. The land bearing Sy. No.9/17 measuring 05 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

12. The land bearing Sy. No.9/20 measuring 22 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

13. The land bearing Sy. No.9/21 measuring 17 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

14. The land bearing Sy. No.9/24 measuring 02 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

15. The land bearing Sy. No.9/25 measuring 05 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

16. The land bearing Sy.No.9/42 measuring 4.12 guntas situated at Vaddarahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

17. The house property bearing katha No. 152100102700820037, belongs to Lakshmipura Gamapanchayath, measuring East-West 11.2776 meter, North-South 11.5824 meter, totally 136.6200 meters situated at Bhuvanahalli village, Kikkeri hobli, K.R.Pete taluk, Mandya district.

2. Case of the plaintiff in brief is as under:-

The plaintiff in his affidavit annexed to this application has stated that, the 1st defendant is his mother, defendant No.2 and 3 are his brother and sister and they are the children of deceased Sri.Venkataramegowda. He himself and defendants are the members of Hindu undivided joint family, the suit schedule item No.1 to 16 are standing in the name of his father Sri.Venkataramegowda, item No. 17 is the joint family property. However, 2nd defendant get the katha into his name illegally. There is no partition effected between the joint family members. Hence, plaintiff and defendants are entitled for their legitimate share in the suit schedule properties. However, defendants fail to give income of the joint family to him and defendant No.1 and 2 are residing in suit schedule item No. 17 of the property. His father was died on 04.04.2023. Thereafter, he has requested defendants to allot his legitimate share in the suit schedule properties. But the defendants have refused to effect the partition. Hence, he has conveyed the panchyath in the presence of elders of his village. They are also requested them to give his legitimate share in the suit schedule properties. Now defendants are trying to get the katha into their names to alienate the suit schedule properties to deprive his rights over the suit schedule properties. Hence, he has issued notice on

28.09.2024 calling upon the defendants to allot his legitimate share in the suit schedule properties. But they have not reply to said notice. Hence, he has filed present suit along with this application.

3. Plaintiff further submits that he has made out prima-facie case balance of convenience lies in his favour, if temporary injunction is not granted it causes hardship to him. Hence, he prays for allow the application.

4. Per Contra, defendants have filed memo by adopting contention of the written statement as objection to IA No.1. The defendants in their written statement have admitted the allegation of facts made by the plaintiff that, katha of the suit schedule item No. 1 to 16 properties is standing in the name of Sri.Venkataramegowda and plaintiff is also entitled for his 1/4th share in the item No.1 to 16 of suit schedule properties. Further they have contended that, 2nd defendant requested the plaintiff and defendant No.1 and 3 to give permission to construct the house in item No.17 of the suit schedule property. Accordingly, he has constructed the RCC house in item No. 17 of the suit schedule property with the consent of the plaintiff and defendant No.1 and 3 and residing in item No. 17 of the house. The plaintiff and defendant No. 1 and 2 residing in joint family house as per the talk between the family the plaintiff has agreed to receive joint

family property. Hence, he has given consent to the 2nd defendant to construct the house. Accordingly, 2nd defendant has constructed the house by pledging golden ornaments of his wife and out of own income, the 2nd defendant has borrowed hand loan to construct the house in item No.17 of the suit schedule properties. Hence, plaintiff, defendant No.1 and 3 have no manner of right or share over the item no. 17 of the suit schedule property. As already stated above plaintiff has given consent to construct the house. Now plaintiff has filed present suit with malafide intention to cause hardship to the defendants and to get wrongful gain by way of wrongful means. Hence, they sought for decreed the suit with respect to item No. 1 to 16 of the suit schedule properties and dismiss the suit with respect to item No. 17 of the suit schedule properties.

5. Heard both sides. Perused the available materials on record.

6. The following points arise for the consideration of this Court;

1. Whether the plaintiff/applicant has made out *prima-facie* case?

2. Whether the balance of convenience lies in favour of the plaintiff?

3. Whether the plaintiff will be put to great hardship and irreparable

loss if temporary injunction is not granted, as prayed?

4. What Order?

7. My findings on the above points are as follows:

Point No.1 : **In the Partly Affirmative,**

Point No.2 : **In the Partly Affirmative,**

Point No.3 : **In the Partly Affirmative**

Point No.4 : **As per the final order**
for the following;

REASONS

8. Point No.1 to 3 : These points are interlinked with each other to avoid repetition of facts they are taken together for common discussion.

9. It is the case of the plaintiff that, he himself and defendant No. 2 and 3 are the children of deceased Sri.Venkataramegowda and defendant No.1 namely Smt.Jayamma. There is no partition effected between the joint family members. Hence, he has requested the defendants to allot his legitimate share in the suit schedule properties. The defendant No.2 get the katha of item No. 17 of the suit schedule properties without his consent. Said property is also joint family property. Hence, he prays for allow the application.

10. Learned counsel for the plaintiff has argued that, if defendants have alienated the suit schedule properties after getting the katha into their names, hardship causes to plaintiff and it creates multiplicity

of proceedings. Hence, he prays for allow the application.

11. The plaintiff in order to establish his case, he has furnished RTC extracts of the suit schedule item No. 1 to 16, wherein katha of the said properties stands in the name of deceased Sri.Venkataramegowda S/o Huchegowda. On perusal of the said RTC extracts it appears that he had acquired the said properties by way of inheritance and sale. Admittedly, deceased Sri.Venkataramegowda was died on 04.04.2023. Hence, plaintiff and defendants being class-I heirs of deceased Sri.Venkataramegowda, they are equally entitled for their share in the above said properties.

12. It is pertinent to note that on the other hand defendants are also admitted that plaintiff is having his legitimate 1/4th share in the suit schedule properties and they pray for decreed the suit with respect to item No. 1 to 16 of the properties.

13. It is pertinent to note that, katha of the suit schedule item No. 1 to 16 is standing in the name or deceased Sri.Venkataramegowda. Hence, if katha mutated into the name of his legal heirs it jointly mutated into the name of plaintiff and defendant No.1 to 3. Hence, in the absence of the plaintiff, defendants could not able to sell the properties as the plaintiff is also having 1/4th share in the said properties.

14. It is the contention of the plaintiff that item No. 17 house property is also joint family property. On the other hand learned counsel for the defendant has argued that, item No. 17 of the property is self acquired property of defendant No.2 as he has constructed the house in item No.17 of the property without assistance of joint family. Hence, he prays for dismiss the IA with respect to item No. 17 of the suit schedule properties.

15. On perusal of the written statement of the defendants it appears that it is the contention of the defendant No.2 that based on the consent given by the plaintiff he has independently constructed the house in item No. 17 of the suit schedule property without financial assistance of joint family. Hence, plaintiff is not entitled for share in the above said property. Question is whether the plaintiff has given permission to defendant No.1 to construct the house or not is subject matter of trial, till then it is just and necessary to protect interest of the plaintiff over the item No. 17 of the suit schedule properties. Admittedly defendant No. 1 and 2 are residing in the said house and as per E-katha, katha also standing in the name of defendant No.2. Under such circumstance, if they alienated the suit schedule item No. 17 of the properties it create multiplicity of proceedings and hardship to the plaintiff. Hence, in order to avoid multiplicity of

proceedings between the parties with respect to item No.17 of the property it is just and proper to grant temporary injunction in order to protect the interest of the plaintiff over the said property. Hence, without much discussion I hold point No.1 to 3 in the **Partly Affirmative.**

16. POINT NO.4: In view of my above discussions, I proceed to pass the following:-

ORDER

I.A.No.1 filed by the plaintiff U/o 39 Rule 1 and 2 R/w Sec. 151 of C.P.C. is hereby partly allowed.

Consequently, the defendants are hereby restrained from alienating the item No. 17 of the suit schedule properties to the 3rd person till pending disposal of the present suit.

Prayer of the plaintiff with respect to item No. 1 to 16 of the properties is hereby rejected.

(Dictated to the Stenographer directly on the computer, typed by her, corrected and then pronounced by me in open court, this the **8th** day of **October-2025**)

(DEVARAJU H.R.)

I Add.Sr.CJ and J.M.F.C.,
K.R.Pete.

* * * * *

On perusal of the records and written statement of the defendants, it appears that there is no dispute between the parties with respect to item No. 1 to 16 of the suit schedule properties. Both plaintiff and defendants have admitted that they are having 1/4th legitimate share each in the above said properties. Hence, before framing of issues it is just and proper to hear both the parties to draw preliminary decree with respect to item No.1 to 16 in order to avoid delay.

Hence, case is posted to hear on drawing of preliminary decree with respect to item No.1 to 16 by: 27.10.2025.

*Add.Sr.CJ and J.M.F.C.,
K.R.Pete.*