

**IN THE COURT OF I ADDITIONAL CIVIL JUDGE AND JMFC,  
NAGAMANGALA**

**Dated this 8<sup>th</sup> day of January 2026**

**Present: SRI. K.P. SIDDAPPAJI. B.A., L.L.B.,  
I Addl. Civil Judge and JMFC.,  
Nagamangala.**

**Original Suit No.262/2014**

**Plaintiffs** : Shivaraju and another

- V/s -

**Defendants** : Narasimhaiah and others

**RANK OF THE PARTIES ON I.A.No.XIII**

**Applicant/  
Plaintiff No.1** : Shivaraju

**(By Sri. S.L.G. Advocate)**

- V/s -

**Opponents/  
Defendants** : Narasimhaiah and others

**(D1, 2, 5 By Sri.N.S.R. Advocate)  
(D3, 7 to 9, 11 by Sri. H.J.V. Advocate)  
(D4, 6 and 10 exparte)**

i	Provision under which application is filed	Order 39 Rule 1 and 2 R/W/Sec.151 of CPC
ii	Relief which sought for	Temporary Injunction
iii	The date on which the application is filed	07-07-2025
iv	Number of the application	XIII
v	Date on which the objection is filed	29-07-2025
vi	Date on which the order is pronounced	08-01-2026

**ORDERS ON I.A. No.XIII**

I.A.No.I is filed by the Plaintiffs under Order 39 Rule 1 and 2 R/W Sec.151 of the Code of Civil Procedure for seeking the relief of Temporary Injunction in favour of the Plaintiffs and thereby restraining the Defendants from alienating the suit schedule item No 2 property till the disposal of the suit.

2. The plaintiff No.1 sworn to an affidavit in support of the application wherein, he has submitted that, they have filed this suit for partition and separate possession against the defendants in respect of suit schedule properties. Defendant No.1 to 11 are the brothers and sisters. The Plaintiffs are children of Defendant No.3. Plaintiffs and defendants are undivided joint family members. The suit schedule properties are ancestral and joint family properties of the plaintiffs and defendants. The Plaintiffs having legitimate share over the suit schedule properties. No any kind of partition was/is taken place. The plaintiffs and defendants are in joint possession and enjoyment of the suit schedule property. The defendants are making preparation to alienate the suit schedule item No.2 property in order to deprive their rights over the suit schedule item No.2 property. Hence, this application has been filed. **With these averments, he has sought for allowing I.A. No.XIII.**

3. The learned counsel for defendant No.1, 4 and 10 filed statement of objection to I.A.No.XIII wherein, he has denied the averments of the affidavit filed in support of the application as false, frivolous and vexatious one. He has

further contended that the suit and application filed against defendants in respect of suit schedule properties is not maintainable since, they are already partitioned in the year 2004. The documents produced by the plaintiffs are no prima facie case made out since, the application schedule and the plaint schedule are different in the present situation. **With these reasons he has sought to dismiss the I.A.No.XIII.**

4. Heard the arguments of the Learned Counsel appearing for the parties and perused the materials on record.

5. Now the following points arise for consideration of this Court are.

**Point No.1:** Whether the Plaintiffs have made out prima-facie case for grant of Temporary Injunction as sought for?

**Point No.2:** Whether the balance of convenience lies in favour of the Plaintiffs?

**Point No.3:** Whether the Plaintiffs will be put irreparable loss and hardship, if IA No.XIII is not allowed?

**Point No.4 :** What Order?

6. The findings of this Court on the above said points are as under:

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

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

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

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

### **REASONS**

7. **Point No.1 to 3 :** Point No.1 to 3 are inter-connected; hence in order to avoid the repetition of facts, the above said points are taken up for common discussion.

8. Admittedly, the plaintiffs have filed this suit for partition and separate possession in respect of suit schedule properties. In order to ascertain the prima facie case, this Court has carefully perused the materials on record. As per the Plaintiffs, defendant No.1 to 11 of the brothers and sisters. The plaintiffs are the children of deceased defendant No.3. The suit schedule properties are ancestral and joint family properties of the plaintiffs and defendants. No any kind of partition was/is taken place between the plaintiffs and defendants. The plaintiffs and defendants are in joint possession and enjoyment of the suit schedule properties. The Plaintiffs having legitimate share over the suit schedule properties. In the accompanying affidavit annexed to the application, the plaintiff No.1 has stated that in order to deprive plaintiffs' rights over the suit schedule item No.2 property the defendant No.1, 2 and 4 to 11 are making preparation to alienate the suit schedule item No.2 property. Per contra in the statement of objection the defendant No.1, 4 and 10 have contended that the suit and application filed against the defendants in respect of suit schedule properties are not maintainable since, they are already partitioned in the year 2004.

9. The plaintiffs in order to show prima-facie case they have produced tax assessment list in the year 2012 pertains to the suit schedule item No.2 property. On perusal of the said tax assessment list appears that suit schedule item No.2 property is stands in the name of defendant No.10.

10. After perused the pleadings of both plaint and written statement, application, objection and documents, this court is of opinion that to know whether partition is already taken place in suit schedule properties in the year 2004 or not, it is required full pledge of trial. At this stage, if the Defendants alienate the suit schedule item No.2 property, then it will lead to multiplicity of proceedings and it will cause hardship to the parties. After considering all these aspects, this Court is of the opinion that the Plaintiffs have made out prima facie case for grant of temporary injunction. If the Defendants alienate the suit schedule item No.2 property, then the Plaintiffs will be put to hardship and in turn it will leads to multiplicity of proceedings. If the Defendants are temporarily restrained from alienating the suit schedule item No.6 and 7 properties till the disposal of the suit, no loss or hardship will be caused to the Defendants. The balance of convenience leans in favour of the Plaintiffs and if the temporary injunction is not granted in favour of the Plaintiffs, then the Plaintiffs will be put to irreparable loss and hardship and the same cannot be compensated in any way. **With these observations, this court has answered Point No.1 to 3 in the Affirmative.**

11. **Point No.4:** For the aforesaid discussion on Point No.1 to 3, this Court proceeds to pass the following:

**ORDER**

I.A.No. XIII filed by the Plaintiffs under Order 39 Rule 1 and 2 R/W Sec.151 of CPC is hereby allowed.

By way of granting temporary injunction infavour of the Plaintiffs, Defendants are temporarily restrained from alienating the suit schedule item No2 property till the disposal of the suit.

No order as to cost.

(Dictated to the stenographer, Computerized by him, corrected and then pronounced by me in the open Court on this the 8<sup>th</sup> day of January 2026)

**(KP SIDDAPPAJI)**  
**I ADDL. CIVIL JUDGE AND J.M.F.C.**  
**NAGAMANGALA.**