

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C.,  
H.D.KOTE**

Present: NATARAJ YADAV .S, M.B.A., LL.B.,  
Senior Civil Judge & J.M.F.C.,  
H.D.Kote

Dated, this the 19<sup>th</sup> day of November, 2022

**O.S.No. 17/2022**

- Plaintiff/s :
1. Shekhar  
S/o Late. Somashekarappa,  
Aged about 45 years,  
R/at # 51, Mallahalli (Beerihundi),  
Jayapura Hobli, Mysuru Taluk And Dist.
  2. Bhagyamma  
W/o Late Ravikumar,  
D/o Late. Somashekarappa,  
Aged about 40 years,  
R/at # 447, Chikkalli, Varuna Hobli,  
Mysuru Taluk And District.
  3. Sundaramma  
W/o Nagendra,  
D/o Late. Somashekarappa,  
Aged about 38 years,  
R/at #50 Mallahalli (Beerihundi),  
Jayapura Hobli, Mysuru Taluk and Dist.
  4. Basavanna  
D/o Late. Somashekarappa,  
Aged about 35 years,  
R/at #50 Mallahalli (Beerihundi),  
Jayapura Hobli, Mysuru Taluk & Dist.  
(By Sh.G.Mahedewaswamy., Advocate)
- V/s-
- Defendant/s :
1. Mangalamma  
W/o Late. Rajanna,  
Aged about 55 years,

2. Shankarprasad  
S/o Late. Rajanna,  
Aged about 32 years,

3. Kumar  
S/o Late. Rajappa,  
Aged about 28 years,

4. Puttappa @ Puttaraju  
S/o Late Rajanna,  
Aged about 26 years,

D1 to 4 are R/at Halladamanuganahalli (Near  
Basavanagudi) Hampapura Hobli, H.D.Kote  
Taluk, Mysuru Dist.

5. Bhagya  
W/o Late. Shankar,  
Aged about 45 years,

6. Ramya  
W/o Late. Shankar,  
Aged about 28 years,

7. Raghu  
W/o Late. Shankar,  
Aged about 26 years,

D5 to 7 are R/at no.75 Near Surya Bekari,  
Devaraj Mohalla, Hebbal, 1<sup>st</sup> Stage,  
Mysuru City, Mysuru Dist.

8. Mangalamma  
W/o Late. Rajashekar,  
Aged about 42 years,

9. Manju  
S/o Late. Rajashekar,  
Aged about 25 years,

D8 &9 are R/atno.1078, 7th Cross,  
Janatha Nagara, K.R. Mohalla, Mysuru City.

10. Nanjamma  
W/o Late.Naganna,  
Aged about 70 years,
11. N. Shivaraju  
S/o Late.Naganna,  
Aged about 50 years,
12. Basamani  
W/o N. Shivaraju,  
Aged about 44 years,
13. Netravathi. S  
W/o N. Shivaraju,  
Aged about 26 years,
14. Swamy. S  
S/o N. Shivaraju,  
Aged about 20 years,
15. Shivananju  
S/o Late. Naganna,  
Aged about 46 years,
16. Mangalamma. K  
W/o Shivananju. S  
Aged about 40 years,
17. Sushmitha.S  
S/o Shivananju. N  
Aged about 18 years,
18. Meghana. S  
S/o Shivananju. S  
Aged about 16years,  
D18 is a minor represented by her natural  
Guardian fatherShivananju. S i.e., D15
19. Nagamani. N  
S/o Late. Naganna,  
Aged about 44years,

20. Rashmitha. K  
S/o Kumarswamy,  
Aged about 19years,
21. Chandan.K  
S/o Kumarswamy,  
Aged about 16years,  
D21 is a minor represented by her  
Guardian sister Rashmitha. K i.e., D20  
  
D10 to 21 are R/at #622, Hebbal, Ist Stage,  
7<sup>th</sup> D Main Road, Metagalli Post, Mysuru.
22. Suresh. K  
S/o Late. Ananadarao,  
Aged about 67 years,  
R/at no. 1044, Devaparthiva Road,  
Shri Hari Apartment Near, Chamarajapuram,  
Mysuru.
23. Ramesha.S  
S/o Somegowda,  
Aged about 50 years,  
R/at Halladamanuganahalli ,  
G.B. Saraguru Post, Hampapura Hobli,  
H.D.Kote Taluk, Mysuru Dist.
- (D1 to 4, D 8 to 21 by Sh. S.Pradsanna.,  
Advocate, D22 & 23 by Sh. K. Sathisha.,  
Advocate, D5, 6 & 7 Exparte,)

**PARTIES TO I.A. II**

Applicant/ Plaintiff : Shekhar

-V/s-

Opponents/Defendants : Mangalamma & others

**ORDER ON I.A.II**

Vide this order, I shall decide an application under Order 39 rule 1 and 2 r/w Sec. 151 CPC filed by the plaintiffs.

2. The application is replied and contested on behalf of defendants.
3. The application arose out of suit for partition and separate possession and permanent injunction claiming the partition of the Halladamanuganahalli Village, Hampapura Hobli, H.D.Kote Taluk (in short suit properties) in favor of plaintiffs and against the defendants thereby declaring that plaintiffs are the owner of 1/3<sup>rd</sup> share in the suit properties. In addition, plaintiffs have claimed the decree of permanent injunction restraining the defendants from transferring, selling, parting with the possession, alienating, disposing off or creating third party interest in the suit properties.
4. The defendants have contested the suit and filed their written statement.
5. I have heard Ld. counsel for the parties and have gone through the record of the case carefully.
6. For consideration of grant of relief of temporary injunction under Order 39 rule 1 & 2 CPC, the civil courts basically considers the three well known principles. Firstly, the plaintiff has to show a prima facie case in his favor, secondly balance of convenience is also in his favor and lastly they would suffer irreparable loss if interim injunction as prayed is not granted.

7. In the present application, the plaintiffs have claimed ad interim injunction in their favor and against the defendants thereby restraining them from alienating, transferring, selling, parting with the possession, disposing off or creating any third party interest to the extent of 1/3<sup>rd</sup> undivided share of the plaintiffs in the suit properties.

8. The prima facie case only means that there is a legal right vested in the plaintiffs and the defendants have infringed the same or intends to infringe the same so the matter requires investigation by way of evidence of parties to evaluate the pleadings of the parties to know which of the parties have legal right, title or interest in the suit properties. Both the parties have made rival claims as to the title/share in the suit properties therefore, matter requires investigation by way of evidence of the parties and the plaintiffs can be said to have the prima facie case in her favor.

9. As regards the creation of third party interest, the principle of balance of convenience and irreparable loss is evenly placed in favor of both the parties, therefore, in my view, the status quo should be preserved with regard to the title of the suit properties till the final disposal of the suit to avoid creation of any third party interest and multiplying the number of defendants.

10. In view of the above, the application is allowed. The defendants are restrained from raising any structure or selling, alienating or creating any third party interest in respect of the suit properties, during the pendency of the suit.

11. It is further important to mention here that the opinion express above shall not lay its impact upon the merits of the main case.

12. In view of the above, I proceed to pass the following;

**ORDER**

**I.A.No.II filed by applicants/plaintiffs U/o 39 rule 1 &2 R/w Section 151 CPC is hereby allowed.**

**Consequently the defendants are restrained from raising any structure, transferring, selling, alienating, parting with possession or in any manner creating any third party interest in the suit properties till the disposal of the main suit.**

**It is further important to mention here that the opinion express above shall not lay its impact upon the merits of the main case.**

**No order as to cost in view of the relationship between the parties.**

**For Issues.**

**Call on: 09.12.2022.**

(Dictated to the Stenographer on computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the 19<sup>th</sup> day of November, 2022)

**(NATARAJ YADAV .S)  
Senior Civil Judge & J.M.F.C  
H.D.Kote**