

KAMS300014042024



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE  
AND J.M.F.C AT HUNSUR**

**Present:** Smt.Anitha, B.A. (Law) L.L.B.,  
Addl. Senior Civil Judge & JMFC.,  
Hunsur.

**Dated this the 13<sup>th</sup> day of January, 2025.**

**OS No.195/2024**

- Plaintiffs: 1. Smt. Devatheertha, W/O Late. Pandith  
Aaradhya, Aged about 60, R/At Benkipura  
Village, Aswalu Post, Bilikere Post, Hunsur  
Taluk, Mysuru District.
2. Guru Mallikarjuna Swamy,  
S/o Late. Panditha Aaradhya  
Aged About 38 Years, R/At Benkipura Village,  
Aswalu Post, Bilikere Hobli, Hunsur Taluk  
Mysuru District.
3. Chandrashekharmurthy B.P.,  
S/o Late Pandith Aaradhya,  
Aged About 34 Years, R/At Benkipura Village,  
Aswalu Post, Bilikere Hobli, Hunsur Taluk,  
Mysuru District.
4. Smt. Kusuma, W/o Late. Umesh,  
Aged About 44 Years, R/At Benkipura Village,  
Aswalu Post, Bilikere Hobli, Hunsur Taluk,  
Mysuru District.

5. Kumari. Nisarga, D/O Late.Umesh,  
Aged About 21 Years, R/At Benkipura Village,  
Aswalu Post, Bilikere Hobli, Hunsur Taluk,  
Mysuru District.
6. Kumari. Chandana, D/o Late.Umesh,  
Aged About 19 Years, R/At Benkipura Village,  
Aswalu Post, Bilikere Hobli, Hunsur Taluk,  
Mysuru District.

-Vs-

- Defendants: 1. Smt. Maheshwari, W/o Nagabhooshan  
Aaradhya, Aged About 63 Years,  
R/At Upparakanahalli Village, Keragudu  
Hobli, Mandya Taluk, Mandya District.
2. Chandrashekhar Aaradhya,  
S/o Shanthaveer Aaradhya,  
Aged About 59 Years, R/At No.13,  
1<sup>st</sup> Cross Road, Tavarekatte, Chamundi  
Bettada Road, Mysuru.
  3. Basava Aaradhya, S/o Shanthaveer  
Aaradhya, Aged About 53 Years,  
R/At Benkipura Village, Aswalu Post,  
Bilikere Hobli, Hunsur Taluk,  
Mysuru District.
  4. Smt.Uma, W/o Nanjunda Aaradhya,  
Aged About 51 Years, R/At Benkipura  
Village, Aswalu Post, Bilikere Hobli,  
Hunsur Taluk, Mysuru District.

1.	Provision under which the application is filed	:	Under Order 39 Rule 1 and 2 R/w Section 151 of CPC
2.	Relief sought for	:	Temporary Injunction
3.	The date on which the application is filed	:	01.08.2024
4.	Number of the application	:	IA No.I
5.	The date on which the objection is filed by opponent	:	NIL
6.	The date on which the orders passed on the said application	:	13.01.2025

### **ORDERS PASSED ON IA NO.I**

At the time of presenting the plaint itself the learned counsel for the plaintiffs filed IA No.I under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking for an order of temporary injunction restraining the defendants from alienating, mortgaging or in anyway transferring the suit schedule property in infavour of anybody till disposal of the suit.

2. The application is supported with the affidavit of the 1<sup>st</sup> plaintiff wherein he has stated that, they have filed the suit against defendants seeking the relief of permanent injunction. They had filed this application seeking for interim injunction restraining the defendants from alienating the suit schedule properties. Now it is learnt by them that there is

attempts made by the defendants to alienate the suit schedule properties and defendants if succeeded will lead to multiplicity of proceedings. The plaintiffs have made out a prima-facie case and balance of convenience lies infavour of the plaintiffs. If the application is not allowed the plaintiffs will be put great hardship. Hence, prayed to allow the application.

3. It is pertinent to note that, after filing of the suit this court issued summons to the defendants. The defendants No.1, 3 and 4 appeared through their counsel, but defendant No.2 has been placed exparte. Defendants No.1, 3 and 4 inspite of putting appearance not chosen to file the written statement.

4. Thereafter, heard arguments addressed by learned counsel for the plaintiffs and perused the case papers. After hearing the argument and on perusal of the case papers, the points that arise for consideration are as hereunder:

#### **POINTS**

1. Whether the plaintiffs have made out a prima-facie case?
2. Whether balance of convenience lies in favour of the plaintiffs?
3. Whether irreparable loss and hardship is going to be caused to the plaintiffs which cannot be compensated in terms of money if an order of temporary injunction is not granted?
4. What order?

5. The findings of the above points are as hereunder:

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**

6. **Point No.1 to 3:** Since, these points are interconnected with each other and needs common discussion on the same set of facts and to avoid repetition of facts, these points are taken up together for discussion.

7. The plaintiffs have filed the suit against the defendants seeking the relief of partition and separate possession of their 2/6<sup>th</sup> share in the suit schedule properties. They have stated that, themselves and the defendants are the members of Hindu Joint Family and the suit schedule properties are the joint family properties of themselves and the defendants. The plaintiffs and the defendants are in joint possession and enjoyment of the suit schedule properties and the plaintiffs have got legitimate share which has made them to file the suit. Along with plaint the plaintiffs maintained the present application under Order 39 Rule 1 and 2 seeking for an order of temporary injunction restraining the defendants or anybody on behalf of the defendants from alienating,

mortgaging or in any way transferring the suit schedule properties during the pendency of the suit.

8. It is pertinent to note that, after filing of the suit this court issued summons to the defendants. In pursuance of service of summons defendants No.1, 3 and 4 appeared before the court. Defendant No.2 inspite of service of summons not appeared and placed exparte. In support of the case the plaintiffs produced the RTC pertaining to the suit schedule properties and copy of grant certificate. They have also produced the affidavit regarding G-Tree and copy of the death certificate of Basammanni. It is very much clear that, the defendants have got no objection to grant the temporary injunction. The relief claimed by the defendants under Order IA No.I is only to limited extent i.e., not to alienate. Admittedly, the plaintiffs have made out a prima-facie case and the balance of convenience in their infavour. Therefore, this court comes to conclusion that, the plaintiffs are entitled for an order to temporary injunction. Accordingly, point No.1 to 3 are answered in the affirmative.

9. **Point No.4:** In view of the reasons discussed above, this court proceeds to pass the following:

**ORDER**

IA No.I filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC is hereby allowed with costs of Rs.200/-.

Accordingly, the defendants or anybody on behalf of defendants are hereby restrained by an order or temporary injunction from alienating, mortgaging or in any way transferring the suit schedule property infavour of anybody till disposal of the suit.

(Dictated to the Stenographer, transcribed and computerized by her on the computer, transcript corrected and pronounced by me in the open court on this the 13 day of January, 2025)

**(Anitha)**

Addl. Senior Civil Judge and JMFC.,  
Hunsur.