

KAMS400021492016



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC
AT K.R.NAGAR**

PRESENT: Sri. Aravindra B.C., *B.A., L.L.B.*,
Senior Civil Judge & JMFC,
K.R. Nagar.

Dated this the 23rd day of June, 2025

FDP No.6/2016

Petitioner : Smt. Geetha

-V/s-

Respondents : Smt. Puttamma and Others

Parties to I.A.No.III

Applicant : Smt. S.K.Geetha,
W/o Late Prashanth S.R.,
Aged about 35 years,
R/at: Alageri Beedi,
Saligrama Town,
K.R.Nagar Town.

**..... Petitioner
(By Sri. C.P.K. Adv.)**

-V/s-

Opponents : Sri. Shivaramgowda,
S/o Late Chikkahanumegowda,
Aged about 45 years,
R/at: Kullegowdara Beedi,
Saligrama Town.



Presently R/at:
Kampalapura village,
Ravandur Hobli,
Periyapatna Taluk,
Mysuru District.

**..... Defendants
(By Sri. T.G. Adv.)**

Provision under which the application is filed	Under Order 39 Rule 1 & 2 R/w Section 151 of CPC.
Relief Sought For	Seeking the relief of grant order of Temporary Injunction.
The date on which the application is filed	16.06.2025
Number of the application	IA No.III
The date on which the objection is filed by the different opponents	16.06.2025
The date on which the orders was passed on the said application	23.06.2025

ORDER ON IA.No.III

This is an application filed by the petitioner/applicant under Order 39 Rules 1 and 2 R/w Section 151 of Code of Civil Procedure seeking the relief of ad-interim temporary injunction against the respondent No.3 restraining from



changing the nature of application schedule property till disposal of the final decree.

2. In the affidavit which is enclosed to I.A. No.III it is stated that, she filed a suit in OS No.37/2012 for the relief of partition and separate possession of her legitimate share. The said suit was decreed. Further it is stated that, after filing of the petition, the surveyor has been appointed to effect partition in terms of preliminary decree. During pendency of this petition, the respondent has taken of the unlawful act to trespass into the property and commenced leveling the land demolishing the boundary lines in the application schedule property. In support of her application she filed photo copies of the schedule property. If the application is allowed, no harm will be caused to the other side. Otherwise, the petitioner



will be put to great loss and injury. Therefore, it is prayed to allow the application.

3. On the other hand, the respondent No.3 has not filed objection to the application. Hence, the objection to the application taken as not filed.

4. Heard the learned counsel appearing for the petitioner and perused the material on record.

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

- 1. Whether the petitioner has made out prima-facie case for grant of temporary injunction as sought for?**
- 2. Whether the balance of convenience lies in favour of the petitioner ?**
- 3. Whether the petitioner will be put to irreparable loss and injury if I.A. is not allowed ?**
- 4. To what order?**



6. The findings of this Court on the above said point 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 final order
For the following;**

REASONS

7. **Point No.1 to 3**:- These points are taken together for common discussion to avoid the repetition of the pleadings.

8. Perused record, it could be seen that the petitioner filed suit before this court for the relief of partition and separate possession with respect to the plaint schedule properties in OS No.37/2012. On contest, the said suit was decreed on 31.07.2014. After that, the present final



decree proceedings was filed in order to demarcate the share of the parties in terms of preliminary decree.

9. Further the record shows that at request of the petitioner this court has appointed a Taluk Surveyor to demarcate the property. The court commissioner has been submitted his report. Further the record shows that, the petitioner was filed an application for rectifying the judgment and decree.

10. Now at this stage the petitioner has filed present application seeking temporary injunction restraining the respondent No.3 from changing the nature of the property. Admittedly, on the other hand, he has not filed objection to the application. The materials available on record disclosed that the petitioner having 1/6th share in the schedule properties.



11. Further the record shows that the sale deed stood in the name of defendant No.3 and 4 are not binding on the share of the plaintiff/petitioner. There is no material available on record to show that, the respondent No.3 has challenged the preliminary decree passed by this court. The preliminary decree itself shows that the respondent No.3 having no manner of right over the schedule property. If the respondent No.3 is will be changed the nature of the property, definitely, the petitioner will be put to great hardship. If the application is allowed, no harm will be caused to the other side. In order to avoid the multiplicity of the proceedings, this court is of the opinion that, the petitioner has made out prima-facie case and balance of convenience lies on her favour. If the injunction is not granted, the petitioner will be caused to great hardship. **With these observations this Court answered point No.1 to 3 are in the Affirmative.**



12. **Point No.4:-** For the above discussion on point No.1 to 3, this court proceed to pass the following:

ORDER

The I.A.No.III filed by the petitioner under Order 39 Rules 1 and 2 R/w Section 151 of CPC is hereby allowed.

The respondent No.3/ Sri.Shivaramegowda is restraining from changing the nature of the property in any manner of the application schedule property till the disposal of the petition.

No order as to cost.

*[Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me in the Open Court on this the **23rd** day of June, 2025]*

**(ARAVINDRA B.C.)
SENIOR CIVIL JUDGE & JMFC,
K.R.NAGAR.**