

KAMS410001642022



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR**

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 03RD DAY OF NOVEMBER 2025

O.S./47/2022

Plaintiff : Ambuja

-V/s-

Defendants : Marigowda and others

I.A. No.I

Applicant : Ambuja

--- Plaintiff

-V/s-

Opponents : Marigowda and others

--- Defendants

Provision under which the applications are filed	U/o 39 R-1 and 2 of C.P.C.
Relief sought for	Injunction
The date on which the application are filed	28.01.2022
Number of the application	1
Date on which the objections are filed by the different opponents	01.09.2025
Date on which the order is passed	03.11.2025

ORDER ON IA NO.1 FILED U/O 39 R-1 AND 2 OF C.P.C

The present application has been introduced, brought and instituted before this court by the applicant/plaintiff against the defendants, wherein it has been sought, fossick, orison, solicited and hearkened to prevent and restrict the defendants or anybody acting on their behalf from causing any kind, manner and form of alienation, vend, disposal and mortgaging the schedule property to the 3rd parties until disposal of the suit.

2. Further the applicant in order to support, stuffer, supplement, bolster and ratify the said application, in order to evince, corroborate and anecdotal the said contention, proposition, pleadings, predication and averments of the affidavit which is submitted. Wherein it is asserted, proposed, predicated and urged in the said affidavit that, the suit has been one which was laid, preferred and installed before this court for the relief claiming partition over the suit schedule properties. Wherein as per the recitals, credentials, disclosures, information and transpiring from the affidavit that, the father of the plaintiff Marigowda and her mother Chennamma being the parents had, acquired, begotten and delivered 3 children. The plaintiff herein is the very youngest and junior most daughter of the Chennamma and Marigowda. Further the 2nd defendant is the oldest, elder and greater sister of the plaintiff herein. Further the 3rd defendant is the widowed wife, wahine and the defendant No.4 and 5 are the children of deceased Ravikumar the brother of the plaintiff and the defendant No.2.

3. Further it is also submitted, contemplated, predicated and proposed in the remaining paragraphs of the affidavit that, the suit schedule properties are ancestral, joint, confect, conjoint, undivided, inseparable, huddle, gritty and integral entire property of the plaintiff and defendants. Further there is no division, separation, segmentation, segregation, septal, septation, bifurcation, distribution, allocations and apportionment has been initiated, processed and set up in the family. Therefore, the plaintiff and the defendants are enjoying, possessing, holding, regulating and they are conferring the joint undivided, sedate, unfazed and tranquil possession and enjoyment over the suit schedule properties.

4. Further the khata has been entered, reflected, standing and recorded in the name of the defendant No.1 Marigowda the father of the plaintiff. Further when the plaintiff has went, approached, gallivant, proposed presenting and pleading her licit, legible, ethical, lawful and bona-fide share over the suit schedule property in the month of June 2022, the defendants without offering, extending, advancing and allotting the lawful and legitimate, equal, iso and just share of the plaintiff, they have replied, answered, recklessly, sleekly, indiscreetly, heedlessly, remissly and breeziness, audaciously and arrogantly replied that, the plaintiff herein is not eligible, deserved, owes and acquired any right and she do not entitled for acquiring and to get any share as requested. Further when the plaintiff caused notice on 30.07.2021. Wherein it was asked, requested and proposed to

effectuate, divide and distribute the proper legitimate and equal share of the plaintiff which she is deserved and entitled, even after the notice being served, no tentative reply or answer being extended and replied by the defendants.

5. Therefore, it is the apprehension, speculation and inference of the plaintiff herein that, the defendant No.1 along with other defendants having subterfuge, plot, collusive with each other and in order to coven, cahoot, depredate, plunder and hoodwink the share of the plaintiff herein and in order to cause, dishonest, fraudulent and unlawful loss and disruptions to the plaintiff herein, they are intending, planning and they are making endurance, efforts and attempts to convey, dispose, vend and sell the property of the plaintiff herein. Therefore, it is the submission, predication averments, pleadings, orison and yearn of the plaintiff/applicant herein that, in order to protect, safeguard, embalm, ratify, keep, intact, preserve and to retain the schedule property as it is, it is necessary, essential, requisite and mandated to pass an order of injunction and to prevent the defendants from causing any alienation and any other form of transforming the property until the final adjudication of the suit.

6. Further the defendants on the contrary, adverse, repugnant, confronting, challenging the said suit and application of the plaintiff/applicant, they have produced, applied, submitted, extended and placed their written statement. Further the epitomized pleadings of the written statement which would emerge, excrete and discloses from the written statement that, the

defendant No.3 to 5 are the wife, wahine and the children of the deceased, necrotic and exanimate Ravikumar who is none other than the son of the defendant No.1 and the brother of the plaintiff and 2nd defendant herein.

7. Further as per the statement proposition, predication and assertions of the written statement, after the Ravikumar being passed away and demised, these defendant No.3 to 5 are leading, running and eking their life very sorrowful, shabby, fink, lamentable, grovelling, pathetic, pitiful, and painfully. Further the husband of the deceased Ravikumar during his lifetime and when he was alive, he has allotted partition share, division by way of cash, gold and other ornaments were handed over, conceded, dispersed, issued and given in favour of the plaintiff and as against the 2nd defendant in lieu and in the place of their respective portion of share which they were entitled. However, even after they were collecting, gathering, procuring and receiving the said ornaments, cash and other articles towards and in the form of their respective shares. The plaintiff is here before this court suppressing, hiding, hele, occluding and without disclosing the said facts, faced and material proposition and matrix before this court.

8. According to the statement, contents and submission of the defendants, after the death of one Ravikumar the plaintiff along with defendants are trying to evict, dispossess, eject, dislodge, banish, expectorate, oust and expel the widows and relict 3rd defendant and her children. Further the plaintiff and the

defendant No.2 since they were already received and collected their portion and respective share in the form of cash and gold ornaments, they are not entitled, owes, legible and deserved to obtain any share any more. Further according to the defendants, the plaintiff has filed, brought and registered the suit in order to obtain, get, acquire and earn unlawful, dishonest and illegal profits. Further in order to glom, plunder, souvenir, clinch and grab the property of the defendants. Therefore the opponent/defendants submitted and they have conjured and implored to dismiss the application.

9. Heard the counsel appearing for plaintiff and also the opponents/defendants herein. Upon considering the pleadings and also verifying the pleadings, materials available on records.

10. The following points arise for this court's consideration.

1) Whether the applicant/plaintiff has made out that, she has got a prima-facie case on hand?

2) Whether the applicant further made out that, the balance of convenience lies in her favour?

3) Whether the applicant further made out that, it will cause untold hardship and irreparable damages to her, if the present application is not allowed?

4) What order?

11. This court findings on the above points for consideration 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

12. POINT NO.1 TO 3:

For the facts and circumstance of the application are concern these three points are interlinked and to avoid the repetition of facts these points are taken up together for common discussion.

13. Upon appreciating the pleadings along with the materials placed before this court, while adjudicating and deciding the application which is filed U/o 39 R-1 and 2 of C.P.C., the relevant factors to be considered by the court is regarding existence of prima-facie factors and case which involves finding of facts as to whether a case for trial is made out and also whether other factors requisite for grant of injunction exists. Further, the court has to consider the balance of convenience in respect of the parties and irreparable injuries or loss if any, that may be suffered by the plaintiff in the case of refusal to grant injunction.

14. Further, admittedly there is no evidence on record to consider the applications on the basis of the evidence. Further, the parties to the suit are yet to lead their evidence. Accordingly, in the absence of any evidence to discuss the applications, this

court has to consider only the available materials which are presented before this court by the respective parties to the suit.

15. According to the plaintiffs, the father of the plaintiff Marigowda and her mother Chennamma being the parents had, acquired, begotten and delivered 3 children. Further the suit schedule properties are ancestral, joint, confect, conjoint, undivided, inseparable, huddle, gritty and integral entire property of the plaintiff and defendants. Further there is no division, separation, segmentation, segregation, septal, septation, bifurcation, distribution, allocations and apportionment has been initiated, processed and set up in the family.

16. Therefore, the plaintiff and the defendants are enjoying, possessing, holding, regulating and they are conferring the joint undivided, sedate, unfazed and tranquil possession and enjoyment over the suit schedule properties. Further the khata has been entered, reflected, standing and recorded in the name of the defendant No.1 Marigowda the father of the plaintiff. Further when the plaintiff has went, approached, gallivant, proposed presenting and pleading her licit, legible, ethical, lawful and bona-fide share over the suit schedule property in the month of June 2022, the defendants without offering, extending, advancing and allotting the lawful and legitimate, equal, iso and just share of the plaintiff, they have replied, answered, recklessly, sleekly, indiscreetly, heedlessly, remissly and breeziness, audaciously and arrogantly replied that, the plaintiff herein is not eligible, deserved,

owes and acquired any right and she do not entitled for acquiring and to get any share as requested.

17. However controverting, opposing, resisting and countering the said views, propositions, explanations, narrations and descriptions of the plaint as per the statement proposition, predication and assertions of the written statement, after the Ravikumar being passed away and demised, these defendant No.3 to 5 are leading, running and eking their life very sorrowful, shabby, fink, lamentable, grovelling, pathetic, pitiful, and painfully. Further the husband of the deceased Ravikumar during his lifetime and when he was alive, he has allotted partition share, division by way of cash, gold and other ornaments were handed over, conceded, dispersed, issued and given in favour of the plaintiff and as against the 2nd defendant in lieu and in the place of their respective portion of share which they were entitled. However, even after they were collecting, gathering, procuring and receiving the said ornaments, cash and other articles towards and in the form of their respective shares. The plaintiff is here before this court suppressing, hiding, hele, occluding, subjugating and without disclosing the said facts, faced and material proposition and matrix before this court.

18. Further according to the defendants, the plaintiff after the death of one Ravikumar, the defendant No.1 being widowed and relict lady, these plaintiffs are making heavy oodles, umpteen and multiple efforts, in order to oust, dislodge, banish, extravaste,

expel, evacuate and expecorate the defendant No.3 to 5 from the schedule property unlawfully, lawlessly, illegally maliciously, feint, unjustly and malignly. Therefore, as per the defendants, the suit is filed, preferred and warranted before this court only with an unlawful, illegal, illegitimate, lawless, malicious and malafide intention to grab and heist out the properties of the defendants.

19. However at this stage this court cannot go in to the matter regarding merit of the suit and decide the case on its merit. Further since we are adjudicating in respect of the application filed U/o 39 rule 1 and 2 C.P.C., till the parties to the suit establish their pleadings of plaint, the subject mater of the suit has to be maintained intact. The plaintiffs have made out prima-facie case, if the defendants alienate the schedule properties during the pendency of the suit, then it may cause untold hardship and irreparable loss and damages. Hence the said application requires to be allowed at this juncture.

20. Hence considering all these factors, in order to avoid the multiplicity of the proceedings and to retain the property free from all encumbrances and to maintain the same intact, this court is of the opinion that, the properties have to be maintained intact without there being any alienation. Further, restraining the defendants from causing any alienation can no way prejudice, impair, flub, disdain, extinguish and fling away the case in favour of the plaintiff and it will not effect adversely to the interest of the defendants in proving and establishing their pleadings of written statement. Admittedly, the schedule properties is now standing in

the name of the defendant No.1 Marigowda father of the plaintiff and defendant No.2. Further, it is the liability and obligation on the part of the applicant/plaintiff to prove the issue of their title and ownership in respect of the schedule properties during the course of trial. Hence, the plaintiff has made out prima-facie case so as to protect her interest till the disposal of the suit and the balance of convenience lies in their favour. Hence, with the above observations, this court inclined to answer the **points No.1 to 3** are in the **affirmative**.

21. POINT NO.4:

In view of the above discussions and the reasons mentioned therein this court proceeds to pass the following:-

ORDER

Application No.1 filed under Order 39 Rule 1 and 2 of C.P.C is hereby allowed.

The defendants or anybody acting on their behalf are hereby restrained from alienating application schedule properties till the disposal of suit.

No orders as to cost.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me in the Open Court on this the 03rd day of November 2025]

(Chandan.S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.