

KAMS500008172025



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC  
NANJANGUD**

**Present :** **Sri. Kamalaksha D., B.A., LL.B.,**  
Senior Civil Judge & J.M.F.C.,  
Nanjangud.

**Dated this the 2<sup>nd</sup> day of April 2026**

**O.S./264/2025**

**Plaintiffs:** Siddamma and others

**-V/s-**

**Defendants:** Siddu and others

**I.A. I**

**Applicant** : Siddamma .. plaintiff No.1  
(By Sri.M.R., Adv.)

**-V/s-**

**Opponents** : Siddu and others  
... defendants  
(By Sri. M.C.S., Adv. for D.1 & 2  
Sri. U.R., Adv. for D.3 to 5)

**ORDER ON I.A. I UNDER ORDER XXXIX**  
**RULES 1 & 2 R/W SECTION 151 OF CPC**

The application is filed for the relief of temporary injunction restraining the defendants or anybody acting on their behalf from alienating, mortgaging or selling the application schedule properties, till disposal of the suit.

2. In the affidavit the plaintiff No.1 sworn that, the plaintiffs have filed the suit for the relief of partition and separate possession. Now the defendants taking advantage of possession of the properties in their names trying to alienate the schedule properties. Suppose the schedule properties are alienated it would create much complex problem to the plaintiffs because the plaintiffs need to search and implead the subsequent purchasers. Therefore, the plaintiff No.1 prays to pass an order of temporary injunction.

3. On the other hand, the defendants No.3 to 5 filed objections denying the allegation of alienation and right of

the plaintiffs over the schedule properties. It is further submitted that, the propositus deceased Siddaiah, the father of the plaintiffs, defendant No.1, father-in-law of the defendant No.3 and grandfather of defendants No.2, 4 and 5 was working as Village Officer. Hence, the Government granted land bearing Sy.No.144 measuring 3 acres 29 guntas in Karlapura Village as Chakra Inam land on 25.04.1973 to Siddaiah. Hence, the items No.1 to 3 of the suit are bifurcated as three survey numbers and they are the self-acquired properties of the deceased Siddaiah. The defendants No.3 to 5 further submits that, the propositus deceased Siddaiah, his first son Siddu, the defendant No.1 and the deceased Shivanna, his second son, orally divided the suit schedule properties long back. As per the oral partition Sy.No.144 measures 3 acres 29 guntas was originally granted to Siddaiah was divided into 1 acre 10 guntas each to his first son Siddu, the 1<sup>st</sup> defendant and his second son Shivanna. Remaining 1 acre 9 guntas was allotted to Siddaiah himself. After the death of the 2<sup>nd</sup> son Shivanna, the khatha of the land changed in the name of

his legal heirs i.e., defendants No.3 to 5. The above said oral partition was facilitated to allot item No.4 of the property to the share of the second son of Siddaiah, S.Shivanna and a site measures 30 x 40 towards the west of item No.4 of the suit schedule property fell to the share of defendant No.1. The deceased Siddaiah during his lifetime has purchased a site in the name of the 1<sup>st</sup> defendant and has constructed a house in the said site to the 1<sup>st</sup> defendant. The said Siddaiah had performed the marriages of the plaintiffs during his lifetime in a very grand manner by offering gold and silver ornaments beyond his strength. The site measuring 30 x 40 towards the west of item No.4 of schedule property and house in the name of the 1<sup>st</sup> defendant in Karlapura Village are not included in the suit. Hence, the defendants No.3 to 5 pray to reject the application.

4. Heard the arguments. Perused pleadings and materials placed on record. The points that arise for my consideration are:

1. Whether the plaintiffs prove prima-facie case to grant temporary injunction ?
2. Whether the plaintiffs further prove that balance of convenience lies in their favour?
3. Whether irreparable injury will cause to the plaintiffs if temporary injunction is rejected?
4. What order ?
5. The above points are answered as follows :-

Points No.1 to 3 : In the affirmative

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

### **REASONS**

6. **Point No.1** :- The suit is filed for partition and separate possession. The simple allegation of the plaintiffs through the 1<sup>st</sup> plaintiff that the defendants are making hectic attempt to alienate the schedule properties. Their further contention that suppose the suit schedule properties are alienated, subject matter of the property will be joined to their hands and they need to search and implead the subsequent purchasers. On the other hand, it

is the contention of the defendants No.3 to 5 that the suit schedule properties are the self-acquired properties, because the Government granted the said property as Chakra Inam land in the name of Siddaiah, because he was working as Village Officer. Their additional defence that the schedule properties divided long back among the legal heirs of Siddaiah. The point of nature of property, proof of grant of property by way of Chakra Inaam, proof of oral partition are to be proved in the trial. It is to be noted that the defendants especially defendants No.3 to 5 have not denied the relationship of the plaintiffs, because the defendants in the objections stated that the marriage of the plaintiffs were grandly performed by offering gold and silver ornaments beyond the capacity of Siddaiah. However, it shows that there is no objection by the defendants pertaining to the relationship of the plaintiffs with them.

7. The purpose of grant of temporary injunction especially in the partition suit to preserve the subject matter of the property till disposal of the suit, otherwise

the alienation would definitely cause hardship not only to the plaintiffs but also to the defendants, because suppose the plaintiffs and defendants are having right over the family properties, definitely their right has to be determined and decided in the trial, because the right of share is statutory right given to the coparcener. The defendants cannot establish their monopoly right over the suit schedule properties saying they are Chakra Inaam property granted by the Government or self-acquired property of Siddaiah as mentioned supra. Trial is definitely required to answer the defence taken by the defendants. It is the dispute between the parties only to decide the right of the parties to get share by way of partition. The defendants No.3 to 5 say that oral partition took place long back and shares in the suit schedule properties were given to the legal heirs of Siddaiah, but it is proved in the trial. Suppose injunction is rejected, it would definitely facilitates the defendants to establish their sole right over the suit schedule properties. Then the entire foundation will be collapsed, because subject matter of the suit will be

gone away from the hands of the plaintiffs. The pleading of the parties clearly show their relationship. The only question before the court is that, whether the plaintiffs are entitled to get the relief of partition. Keeping intact of the subject matter of the property till adjudication of the matter is cardinal task to preserve as it is to decide the rights of the parties to get share. Hence, it may be said that the plaintiffs have established prima-facie case.

8. Now it is worth to refer the judgment of the Hon'ble High Court of Karnataka, injunction granted in the case of **Manjunath Yamanappa Shirasyada Vs. Yamanappa Gangappa Shirasyad** reported in **AIR Online 2023 KAR 1178**, in that case the Hon'ble High Court held that, *“the question of fact involved and issue was triable therefore, Trial Court was bound to protect status-quo of suit properties until disposal of suit.”* In that matter plaintiff contended that the suit properties were ancestral and they were entitled to share in the properties. Defendant pleaded that properties were his absolute property. Here in this matter

also the plaintiffs and defendants have taken identical stand of defence. Therefore, the plea and defence are to be proved in the trial, till then the schedule properties required to be protected. Accordingly, **point No.1** is answered **in the affirmative**.

9. **Points No.2 & 3:** These points are interlinked with each other, hence they are taken up together for discussion to avoid repetition. The preservation of the subject matter of the property as it is till end of trial is cardinal point, otherwise suppose injunction is not granted it would help the defendants to alienate the suit schedule properties as alleged by the plaintiffs, then that cannot be compensated in terms of money. The plaintiffs have just asked for grant of temporary injunction against the defendants not to alienate the schedule properties. Therefore, if such nature of temporary injunction is ordered it will not cause any hardship to the defendants. Hence, **points No.2 and 3** are answered **in the affirmative**.

10. **Point No.4:-** In view of the findings on the above points, this Court proceeds to pass the following:

**ORDER**

I.A.I filed by the plaintiff No.1 under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC is allowed.

The defendants are restrained from alienating the application schedule properties in favour of anybody in any manner by way of temporary injunction till disposal of the suit.

No order as to cost.

*(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 2<sup>nd</sup> day of April 2026).*

**(Kamalaksha D.)**  
Senior Civil Judge & J.M.F.C.,  
Nanjangud.