

**KAMS510024512024**



**IN THE COURT OF THE I ADDL., CIVIL JUDGE &  
J.M.F.C., AT NANJANGUD.**

**: PRESENT :**

**SMT. SARITHA KUMARI A.M.  
B.A., L.L.B.,  
I ADDL., CIVIL JUDGE & JMFC.,  
AT NANJANGUD**

**DATED THIS THE 04<sup>th</sup> DAY OF JULY, 2025**

**O.S./257/2024**

**Plaintiffs:- Mrs.Shanthi,**  
W/o.Shivakumar,  
D/o.Late.Mallaiah,  
Aged about 32 years,  
R/at. No.31, Korehundi village,  
Nanjangud Rural, Mysuru District.

**(By Sri.Natesha- Adv.,)**

**-V/s-**

**Defendants:- 1. Mrs.Gowramma,**  
W/o.Siddu,  
D/o.Late.Mallaiah,  
Aged about 35 years,  
R/at.Deveerammanahallihundi,  
Deveerammanahallihundi post,  
Nanjangud Taluk, Mysuru District.

**2. Mrs.Kalamma,**  
W/o.Late.Mallaiah,  
Aged about 50 years,  
/at.Korehundi village, 5<sup>th</sup> division,  
Nanjangud Town, Mysuru District.

**3. Mr.Mahadeva @ Kuniki,**  
S/o.Late.Madegowda & Karagamma,  
Aged about 52 years,  
R/at.No.52, Korehundi village,  
Deburu post, Kasaba hobli,  
Nanjangud Town, Mysuru District.

**( Defendant No.1 & 2 By Sri.K R .- Adv.,)**  
**( Defendant No.3 By Sri.K S K .- Adv.,)**

**I.A. No.I**

**Applicant** : **Mrs.Shanthi**

**(By Sri.Natesha - Adv.,)**

**Opponents** : **Mrs.Gowramma & others**

**( Defendant No.1 & 2 By Sri.K R .- Adv.,)**  
**( Defendant No.3 By Sri.K S K .- Adv.,)**

**ORDER ON I.A.No I**

This is an application under Order 39 Rule 1 and 2 R/w Sec. 151 of C.P.C., filed by the plaintiff praying an order of temporary injunction against defendant No.3, their agents, servants or anybody acting on their behalf from alienating the suit schedule property in any manner whatsoever, pending disposal of the suit.

2. The application supported by an affidavit filed by the plaintiff, in the said affidavit, the plaintiff contended that, the suit schedule property is the ancestral and joint family property of plaintiff and defendant No.1 & 2 who is sister and mother of plaintiff respectively. The suit schedule property is her ancestral property, her father acquired the suit schedule property from his father by name Late.Mallegowda that is grand-father of plaintiff. After the demise of Late.Mallegowda the property came to the hands of Late.Mallaiah, plaintiff's father. Plaintiff, defendant No.1 & 2 are the only legal representatives and successors of deceased Late.Mallaiah. No partition has took place between plaintiff and defendant No.1 & 2.

She further contended that, the suit schedule property is her ancestral joint family property. Her father Late.Mallaiah was addicted to some bad habits and he was not maintaining his family. The suit schedule property khatha and other revenue records stood in the name of her father itself. Taking undue advantage of Late.Mallaiah colluded with defendant No.3 created and concocted the nominal sale deed dated:06.10.2003 without any legal necessary and without the consent of the defendant No.1 and 2 and plaintiff. In order to make a wrongful gain and knock of the suit schedule property they did this act. This fact recently came to the knowledge of the plaintiff and then the plaintiff verified the revenue documents and confirmed the same. She submits that, her father is not having any exclusive right over the suit schedule property to

execute the sale deed in favour of defendant No.3 and said sale deed is not binding on her share.

She further states that, on 16.06.2024 she got conveyed a Panchayath and demanded the defendant No.1 & 2 to effect partition and put her in possession of her legitimate share in the suit schedule property and defendant No.3 to return the suit schedule property to her but defendant No.3 does not heed to the words of panchayathdars. But, defendant No.3 has colluded with the revenue authority and created concocted documents for making wrongful gain and cause loss to the plaintiff. Hence, this application.

4. On the other hand, defendant No.1 and 2 not filed objections. Defendant No.3 filed objections contending that, the 3<sup>rd</sup> defendant has purchased the suit schedule property. Hence, prays to dismiss the application.

5. Heard arguments by both sides.

6. In view of the above rival contention, the points that arise for consideration are as follows;

**1. Whether plaintiff has made out prima facie case?**

**2. Whether the balance of convenience lies in favour of the plaintiff?**

**3. Whether plaintiff will be put to irreparable loss and injury would be caused to the defendants, if this application is not allowed ?**

**4. What order?**

7. Finding on the above points are as follows;

**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;**

**:-:R E A S O N S:-**

**8. Point No.1 :-** It is well settled Law that to get an order of temporary injunction, the plaintiff has to establish that he has made out prima-facie case. Further it is duty of this court to know that what is the meaning of word “prima-facie”. It must be need that if the materials available on record at the time of hearing the interim applications are sufficient to conclude that there is a bona-fide dispute and there is strong case for the trial, which needs investigation and on the facts before the court there is a probability of plaintiff being entitled to the relief claimed by him. Then one can say that the plaintiff has made out prima-facie case. This view of this court receives supports from Law declared by Hon'ble Apex Court in the decision reported in **AIR 1993 SC 272 in the case of Dalpat Kumar V/ s. Prahlad Singh .**

9. It is the say of the plaintiff that the suit schedule property is acquired by Late.Mallegowda i.e., grand-father of the plaintiff. After the Mallegowda, the father of the plaintiff

Late.Mallaiah succeeded the property. The plaintiff and defendant No.1 and 2 are only legal heirs of Late.Mallaiah. Since, there is no partition took place, plaintiff and defendant. Further, the 3<sup>rd</sup> defendant colluded with defendant No.1 and 2 created a sale dated:06.10.2003. The said fact came to the knowledge of the plaintiff very recently. Now the 3<sup>rd</sup> defendant is trying to alienate suit schedule property to the 3<sup>rd</sup> persons. Hence, this application.

10. On the other hand, defendant No.3 says that he had purchased the suit schedule property from his vendor. Further, in his written statement he contended that, on 06.10.2003 the father of the plaintiff sold the suit schedule property. At the time of execution of sale deed, the plaintiff was aged 10 years and first defendant was aged 15 years. The father of the plaintiff sold the property for the legal necessity of minor children. He has sold the suit schedule property to his vendor. On perusal of the documents produced by the plaintiff, it clearly shows that prima-facie was established by the plaintiff. On prima-facie it shows that the suit schedule property is ancestral property. As per Sy.No.97/2 RTC. The defendant contended that he already purchased suit schedule property from the father of the plaintiff and father of the plaintiff sold it by including minor guardian interest. Admittedly, there involves minor guardian interest. The contention raised by defendant can not be considered at this stage and it can be looked into at the time of trial. Hence this court feels that, plaintiff has made out strong case for trial.

This court hold that plaintiff has made out prima-facie case. Hence point No.1 answered in **Affirmative**.

11 **Point Nos. 2 & 3**:- These two points are taken together for discussion, since they are interconnected with each other and so also they require common discussion.

12. It is well settled that, mere expression of the prima-facie case alone, does not entitled the plaintiff for discretionary relief of temporary injunction. On the other hand the plaintiff has to prove that balance of convenience lies in his favor and he will be put to great loss and injury, if the temporary injunction order is not granted.

13. keeping in view the said ingredients, which are require to be proved by the plaintiff, all the documents produced by the plaintiff shows that the suit schedule property is purchased by the defendant No.3 and further opinion of this court if injunction order is not granted, 3<sup>rd</sup> defendant made alienate the suit schedule property, which leads multiplicity of proceedings. In such situation arises certainly the plaintiff will be put to great loss and injury. Hence this court conclude that the balance of convenience lies in favor of plaintiff and it is plaintiff will be put to great loss and injury if temporary injunction order is not granted.

14. However, it is made clear that, this court has expressed the said opinion only for the adjudication of the present application filed under Order 39 Rule 1 and 2 R/w Sec.

151 of C.P.C., and the said expression can not be turned as an expression on merits of this case. Accordingly, Point No.2 and 3 are answered in **Affirmative**.

**15. Point No.4:-** In view of the finding, this court proceeds to pass the following;

**ORDER**

***IA No.I under Order 39 Rule 1 and 2 R/w Sec. 151 of C.P.C., filed by the plaintiff is hereby allowed till disposal of this suit.***

***Defendant No.3 is hereby restrained from not to alienate the suit schedule property till disposal of the suit.***

(Dictated to the Stenographer, transcribed by her, corrected and signed by me and then pronounced in open court on **04<sup>th</sup> day of July-2025**)

**( Saritha Kumari A.M )**  
I Addl. Civil Judge & J.M.F.C  
Nanjangud.