

KAMS510027382015



**IN THE COURT OF THE I ADDL CIVIL JUDGE &
JMFC, AT NANJANGUD
: PRESENT :**

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

DATED THIS THE 02nd DAY OF April, 2026

O.S./459/2015

**PLAINTIFF: N.Ravichandra
(P1 By Sri.K B J & P2 & 3 by
Sri. R R B - Adv.,)**

-V/s-

DEFENDANT: Nagaraju & others

(D1 by Sri.M A S and D4 & 5 by Sri.B R - Adv.,)

PARTIES TO I.A.No.I

Applicant/Plaintiff : N.Ravichandra

-V/s-

Opponent/Defendant: Nagaraju & others

ORDER ON I.A.No.IX

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 restraining the opponents or anybody on their behalf from alienating the suit schedule property to 3rd parties by way of sale, mortgage etc., till the pending disposal of this suit in the interest of justice and equity.

2. The application supported by an affidavit filed by the plaintiff, in the said affidavit, the plaintiff contended that, he has filed the suit for the relief of partition and separate possession of the suit schedule property by metes and bounds.

3. He further contends that, in the meanwhile his father and sister are trying to alienate the suit schedule property item No.1 to outsiders. His father and sister want to sell the suit schedule property to make wrongful gain. The prospective purchaser are visiting the suit schedule property with an intention to buy the same. In case the defendants succeed in alienating the suit schedule property, he need to file necessary application to bring the purchaser on record which leads to multiplicity of proceedings. The balance of convenience lies in his favour. If the present application is allowed, it will not cause any

hardship and injury to the opponent. On the other hand, if application is not allowed, it will cause much hardship and injury to the plaintiff which cannot be compensated in terms of money. Hence, he prays to allow the application.

4. On the other hand, the counsel for plaintiff No.2 filed objections to IA No.IX and contended that, as neither the Plaintiff No.2 and 1st defendant does not have any such idea or thought of selling schedule properties in their mind as it is main and only source of his living to lead the life of 1st defendant and whereas 2nd Plaintiff's legitimate share involved in respect of suit schedule property.

5. The plaint schedule properties are joint family property of 1st defendant and the 2nd plaintiff is claiming her legitimate share in respect of the schedule properties against her father i.e. 1st Defendant. The plaintiff No.2 has filed the present suit for partition and separate possession of their share over the suit schedule properties, against their father i.e 1st defendant. Such being the matter of fact, the question of trying to alienate the schedule properties colluded with 1st Defendant does not arise at all and hence said baseless allegation is hereby denied as false by 2nd Plaintiff. And Plaintiff No.1 is put to strict proof of the same.

6. It is submit by the 2nd Plaintiff that Plaintiff No.1 being son of the 1st Defendant, it is his legally bounded duty to look after and maintain the well fare of his aged and ailed parents. But instead of it, Plaintiff No.1 is harassing the 1st Defendant and his Mother by domestic violence and he is not maintain the basic necessity of day to day life of his parents even though he is having sufficient means as he is working as ICICI Bank employee and he also owned house property from which he is getting rental income.

7. It is submit that 1st Defendant is absolute ownership and right over the suit schedule property, and he has every manner of right to enjoy the fruits of the coconut trees planted in landed property of the suit schedule property. As it is main source of income to his family to lead his life. But the Plaintiff No.1 cause hindrance to pluck the coconuts by restrained the 1st Defendant not to step into the landed property by his cruel act and by life threat to 1st Defendant.

8. It is submit that it is the Plaintiff No.1 has leased out schedule landed property to a outside person, which contains coconut trees and he is grab the entire income of coconut trees, with an intention to deprive the rights of the 1st Defendant to enjoy the fruits of said coconut trees. This

crooked attitude of Plaintiff No.1 is harassing the 1 Defendant physically and mentally. Hence this application is liable to be dismissed in limine.

9. The counsel for defendant No.1 filed objections to IA No.IX and contended that, The 1st plaintiff has already mortgaged the property for the purpose to pluck the tender coconuts. It is stated in the plaint by the 1st plaintiff there are 100 yielding coconut trees in the plaint schedule property, and the 1st plaintiff in order to protect his mortgager the 1st plaintiff was come up with such type of application. When the questioned the mortgagor not to pluck the tender coconuts, the 1st defendant is the kartha of the family, and further he is the absolute owner of the schedule property and the same is got the 1st defendant through palu patti, hence he is the absolute owner of the schedule property.

10. The 1st defendant further submits that, when such were the situation after lapse of 8 years, the 1st plaintiff has come up with an application for restraining the 1st defendant and plaintiff No. 1 & 2 are not alienating the schedule property is highly belated one and unbelievable one.

11. The 1st defendant further submits when the 1st defendant questioned the 1st plaintiff the illegal mortgage

of tender coconut trees. Than the 1st plaintiff has come up with such type of application on false grounds and stating that the 1st defendant are making hectic efforts to sell the schedule property is far away from the truth.

12. The 1st defendant further submits that, the 1st defendant is not much educated, and he is totally depending on agricultural income to eking out his lively hood. Except his income he had no other source of income to lead his life. 1st defendant does not know any other work except the agricultural work, when such were the conditions the 1st defendant along with plaintiff No. 1 & 2 never dreamt to sell the schedule property. It is a cock and bull story it is invented by the 1st plaintiff to file such type of belated application on false grounds. There is no prima facie case in favor of 1st plaintiff, no balance of convince lies in favor of 1st plaintiff. If an order of Injunction is granted in favour of the 1st plaintiff he would definitely restraining 1st defendant not to enter into plaint schedule property to do the agricultural work. If an Injunction order is granted in favor of the 1st plaintiff which cause more hardship and inconvenience to the 1st defendant which leads to multiplicity of litigation. Hence prays to dismiss the application.

13. Heard arguments by both sides.

14. 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?

15. Finding on the above points are as follows;

<i>Point No.1</i>	<i>:-</i>	<i>In the Affirmative</i>
<i>Point No.2</i>	<i>:-</i>	<i>In the Affirmative</i>
<i>Point No.3</i>	<i>:-</i>	<i>In the Affirmative</i>
<i>Point No.4</i>	<i>:-</i>	<i>As per the final order for the following;</i>

-::REASONS:-

16. 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 .**

17. It is the say of the plaintiff that suit schedule property is ancestral property. On the other hand the same is admitted by the defendant no.1 and the plaintiff no.2. The plaintiffs are seeking partition and separate possession of the suit schedule property. 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 plaintiff are have right over the property. 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.**

18. **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.

19. 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.

20. 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 plaintiffs are having right over the suit schedule property and further opinion of this court if injunction order is not granted, the defendant may 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.

21. 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**.

22. 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 is hereby restrained from
not to alienate the suit schedule property
to 3rd parties by way of sale, mortgage etc.,
till disposal of the suit.***

***For amendment and amended plaint
as per order dated 28.07.2023***

Call on 24.04.2026

(Dictated to the Stenographer, transcribed by her, corrected and signed by me and then pronounced in open court on **02nd day of April-2026**)

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