



I.A.No.	1
I.A filed by the	Plaintiff
Date of filing of I.A	24-05-2022
Date of filing objection by the Defendant	16-06-2023
Date of Order	22-03-2025

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE
AND CJM., AT RAMANAGARA**

Dated:- This the 22nd day of March, 2025

Present:-

Sri. Lokesha

B.A., L.L.B.,

Prl. Senior Civil Judge & CJM.,
Ramanagara.

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Plaintiff :- Smt. Gangamma Dead by
her Lrs.,

V/s.,

Defendants :- Sri. M.S. Revanasiddaiah and others

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Applicant :- Smt. Gangamma Dead by
her Lrs.,

- (Plaintiffs)

-V/s-

Opponents :- 1. Sri. M.S. Revanasiddaiah



3. Smt. Annapurna

- (Defendants No.1 and 3)

* * *

**ORDER ON I.A.No.1 UNDER ORDER 39 RULE 1 AND 2
OF CPC.,**

This application is filed by the 1st Plaintiff Smt. Gangamma requesting the court to pass an order of temporary injunction against the defendant No.1 and 3 restraining them from alienating suit schedule properties pending disposal of suit.

2. In the affidavit filed accompanying this application, Plaintiff No.1 states that states that the suit schedule properties are ancestral and joint family properties of plaintiffs and defendants and they are in in joint possession of the suit properties. The defendant 1 and 3 have fraudulently got the katha changed into their name and they are trying to alienate the suit properties to deprive the share of the plaintiffs. If the defendants No.1



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and 3 alienate the suit properties, plaintiffs would be put to irreparable loss and injury. If this application is not allowed, plaintiffs would be put to irreparable loss and injury. Hence, she prays to allow this application.

3. On the other hand the Defendants No.1, 3 to 5 have filed written statement admitting the relationship pleaded by the plaintiffs. The specific case of the defendants No.1, 3 to 5 that suit item No. 1, 2, 4, to 8 are self-acquired properties of Shivananjaiah S/o Nanjaiah. It is specific case of the defendants No.1, 3 to 5 that suit item No. 3 is self-acquired property of 1st defendant. It is also their defense that on 12-11-1998, there was a partition between Shivananjaish and his two sons, viz., Revanasiddhaiah and Anandappa. On the basis of Panchayat Parikatha, the katha has been changed into the name of defendant No.1 and 3 and Shivananjaiah and his wife, Mariveeramma. Hence, they have sought for



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dismissal of suit. Defendant number 1, 3 to 5 have filed a memo adopting the arguments of the written statement as objection to this application. Hence, they have sought for rejection of application.

4. I have heard the learned counsel for the Plaintiff and defendants No.1, 3 to 5 and perused the materials on record.

5. The following Points arise for my consideration:-

(1) Whether the Plaintiffs have made out a prima-facie case?

(2) Whether the balance of convenience and comparative hardship is made out by the Plaintiffs?

(3) Whether the Plaintiffs would suffer irreparable loss and injury, if temporary injunction is not granted in their favour?

(4) What order?

6. My answers to the above points are as under:-

Point No.1 to 3 : In the Affirmative;



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

REASONS

7. Point No.1:- Admittedly, present suit is filed by the plaintiffs against defendants for relief of partition and separate possession. It is not in dispute that Nanjaiah @ Kariyappa had a son by name Shivananjaiah. Shivananjaiah had a wife by name Veeramma. It is also not in dispute that Shivananjaiah and his wife Veeramma had nine children, viz., Plaintiff Gangamma, Parvathamma, Revanasiddaiah, 1st defendant, Akka Mahadevamma, Renukamma, Plaintiff No. 6, Nanjamma, Defendant No.2, Anandappa, husband of the 3rd Defendant and father of Defendant No. 4 and 5 and 7th Plaintiff Saubagyamma. It is also not in dispute that the plaintiffs and defendants are Hindus and they are governed by Hindu Mitakshara school of law. It is specific case of the plaintiffs that all the suit properties are

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ancestral and joint family properties of themselves and defendants and they are in joint possession of the same without any division. On the other hand, it is the case of the defendants No.1, 3 to 5 that suit item No.3 is self-acquired property of the 1st defendant and item No.1, 2, 4 to 8 are self-acquired properties of Shivananjaiah and there was a partition between Shivananjaiah, his wife, and defendants No.1 and 3rd defendant husband Anandappa, on 12-11-1998. Based on the original panchayat parikath, the katha has been changed to their name of respective shareholders.

8. Before going to discuss the documents, it is necessary to know the meaning of prima facie case. Prima facie case is a substantial question raised bona-fide which needs investigation and a decision on merits. Prima facie case for temporary injunction generally means that the plaintiff's affidavit and annexure if any go to show



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that he has a case to go to trial. Prima-facie contemplates that if material placed before the Court, as such issue arise which requires to be investigated by the Court at the trial prima-facie case is made out. It only means substantial question raised in the pleadings which at first sight appears worth investigation and decisions.

9. The defendants No.1, 3 to 5 have produced voluminous documents which are RTC extracts with respect to suit properties and sale deeds for having purchase of the some of the suit properties in the name of Shivananjaiah and also produced Panchayat Parikath dated 12-11-1998. Undisputedly this Panchayat Parikath dated 12-11-1998 is an unregistered document effected between Shivananjaiah, his wife Veeramma and their sons. As per this document, they had divided the properties bearing Sy.No.70/1, Sy.No.179, Sy.No.269 and Sy.No.121/1A and they have also divided the property



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bearing survey No.89 among them and also survey No.179. I have also perused the revenue records produced by the defendants. It is true that Katha has been changed into the name of Defendant No.1-Revanasiddaiah and 3rd defendant husband Anandappa.

10. Whether the Defendants No. 1, 3 to 5 establishes the alleged partition deed dated:12.11.1998 or not is to be decided only after full-fledged trial. In other words, prior partition has to be proved by the Defendants No.1, 3 to 5 by adducing cogent and acceptable evidence before the court only during trial. Unless the partition is proved by the defendants, it shall be presumed that the plaintiffs and defendants are joint family members and joint family status has not been severed. Unless this fact is proved by the defendants, it can be said that the plaintiffs have made out arguable case and made out case for trial. The documents produced by the defendants themselves are

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sufficient to hold that plaintiffs have made out prima facie case. The case of the defendants No.1, 3 to 5 that suit properties item number 1, 2, 4 to 8 are self-acquired properties of Shivananjaiah or not has to be established during trial. Till then it can be held that plaintiffs have made out clear prima facie case for trial and arguable case. At this stage mini trial cannot be conducted. Moreover, at this stage, merits of the case cannot be gone to decide. At this stage, only the prima-facie case has to be made out and has to be seen. For the foregoing reason, I come to conclusion that the plaintiffs have made out prima-facie case.

11. It is also well settled that proof of prima-facie case does not require such proof as can made a final decision. It is also well settled that while granting and refusing of injunction pleadings and documents play a vital role. It is also well settled that in the board category

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of prima-facie case it is imperative for the Court to carefully analyses the pleadings and documents on record and only on that basis Court must be governed by the prima-facie case. Under such circumstances, it can be held that Plaintiffs have made out prima-facie case. With these reasons **I answer Point No.1 in the Affirmative.**

12. Point No.2 and 3:- The balance of convenience means so on. At this stage, it is necessary to know the meaning of balance of convenience.

Only Where the legal injury likely to be caused to the plaintiffs appears more than those that may be caused to the adversary, grant of temporary injunction would be proper. The underlining principle of balance of convenience is judicial doctrine where by a Court, the materials on record, which are affidavits sworn by rival parties and the annexures made therewith, measures the



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competing interests between the parties and decides which interest should prevail till the disposal of suit.

13. As per the affidavit of the plaintiff No.1, it appears that the suit properties are being alienated by the defendants No.1 and 3. As the khata of the suit properties stands in the name of defendants No.1 and 3, there is a chance of alienation of the properties during pendency of the suit. If the defendants No.1 and 3 are succeeded in their attempt of alienation of the suit properties and the event of plaintiffs succeeded in the suit, it would be difficult for the plaintiffs to get the decree executed in accordance with law. Under such circumstances, suit properties are to be protected intact during pendency of the suit. Otherwise, it would cause injustice to the plaintiffs and also it would leads to multiplicity of proceedings. Even if the defendants alienate the suit property, rule of dispendence would apply. Under such

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circumstances, It can be said that balance of convenience lies in favour of the plaintiffs, rather the defendants No.1 and 3. If the defendants No.1 and 3 alienated the suit properties, certainly irreparable loss and injury would be caused to the plaintiffs, which cannot be compensated by terms of money. Therefore, this court is of the opinion that it is a fit case to grant order of temporary injunction against the defendants No.1 and 3. Therefore, **I answer Point No.2 and 3 in the Affirmative.**

14. Point No.4:- In view of my answers to Point No.1 to 3, I proceed to pass the following :-

ORDER

I.A.No.1 filed by the Plaintiffs under Order XXXIX Rule 1 and 2 r/w Sec.151 of the CPC., is hereby allowed.

The Defendants No.1 and 3 are hereby restrained by an order of temporary injunction from alienating the suit properties pending disposal of the suit.



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The cost of this I.A. shall follow
the final result of this suit.

(The order is dictated by me in the Lap-top in Adalat ai through dicta-phone, corrected by me and then pronounced by me in the Open Court on this the 22nd day of March 2025).

(Lokesha)
Prl.Senior Civil Judge & CJM,
Ramanagara.