

KARN020008492020



**IN THE COURT OF THE 1<sup>st</sup> ADDITIONAL SENIOR CIVIL  
JUDGE AND JMFC, RAMANAGARA**

**Dated This 26<sup>th</sup> day of March 2024**

**PRESENT:**

**Sri. Mahesh B.T.,**

B.Com., LL.M.,

1<sup>st</sup> Addl., Senior Civil Judge and JMFC,  
Ramanagara.

**OS.No.370/2020**

**Plaintiffs :-** Sri.Muruli and Another

**V/s**

**Defendants :-** Sri.B.R.Suryanarayana Murthy and Others

\* \* \* \*

**I.A**

**Applicants :-** Sri.Muruli and Another

- -(Plaintiffs)

**V/s**

**Opponents :-** Sri.B.R.Suryanarayana Murthy and Others

- - (Defendants)

\* \* \* \*

**Orders on I.A filed by the plaintiffs**  
**U/o 39 Rule 1 & 2 r/w Sec.151 of CPC**

The plaintiffs have filed the present application for



temporary injunction restraining the defendants from alienating, encumbering or creating any kind of charge over the suit schedule properties in favour of third party, till disposal of the suit.

2. As per the affidavit of the plaintiffs, it is stated that the plaintiffs have filed the suit for the relief of partition and separate possession of the suit schedule properties. It is stated that, the deceased Ramakrishnaiah had inherited the agricultural properties from his ancestors. After the death of their grandfather, some of the properties were changed in the name of their grand-mother Lakshamma and other defendants jointly. There is no partition of the suit schedule properties among the children of deceased Ramakrishnaiah. They and defendants are entitled for equitable share in the suit schedule properties.

3. Further it is stated that, in the initial stage



defendants agreed to effect partition and allot separate possession to them as per law and also handover separate physical possession of their respective shares. Subsequently, all the defendants colluded together and they wanted to dispose the suit schedule properties in favour of others by misusing the revenue documents standing in their names. Immediately, defendants jointly filed an application before the revenue office for the change of katha in individually to deal with the suit schedule properties. On coming to know the illegal acts of the defendants, they have filed their objections before the revenue authorities. Further it is stated that, instead of effect partition the defendants are seriously trying to dispose the properties to the third parties. They did not able to restrained the defendants from alienating the schedule properties, without aid of this court.

4. Further it is stated that, they have made out



prima facie case and balance of convenience lies in their favour. If the application is allowed no hardship will be caused to the defendants and on the other hand if the application is not allowed they will be caused more hardship and irreparable injury. Hence, they have prayed to allow the application.

5. The defendants have appeared before the court and the defendant No.1 filed their written statement and also filed a memo adopting the written statement as objection to the instant IA.

The defendant No.1 in his written statement contended that, the suit filed by the plaintiff is not maintainable and suit itself is highly frivolous, vexatious with malafide intention and suppression of true and material facts with an intention to harass the defendants unnecessarily. Further contended that, in the written statement the claim of the



plaintiffs is false and there is no cause of action to file the above suit and plaint is created and concocted one. Further contended that the plaintiffs have no locus-standi to file instant suit without having any right to file the instant suit to harass the defendants. Hence, prays to dismiss the application.

6. Heard and perused materials on record.

7. The following points arise for my determination:

- (1) Whether the plaintiffs have made out a *prima-facie* case to allow the I.A ?
- (2) *Whether the plaintiffs have got balance of convenience in their favour ?*
- (3) *Whether the plaintiffs would be put to loss and injury if the I.A is not allowed ?*
- (4) *What order ?*

8. My findings on the above points are as under:

**Point No.1 to 3 :** *In the Affirmative;*



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

**REASONS**

9. **Point No.1:** I have already set out in brief as to what the case of the plaintiffs and as to what the stand taken by the defendants. It is well settled principles of law that the following prepositions are to be established in order to invoke the jurisdiction of the court to get an interlocutory order of injunction U/o.39 Rule 1 and 2 of CPC. (1) Plaintiff has to establish a prima-facie case, (2) the balance of convenience is in favour of the plaintiff and (3) that the plaintiff will suffer irreparable injury if an injunction is refused. The ingredients are to be established by the party, who seeks injunction in his favour. The grant of injunction being a discretionary relief, the party should come with clean hands and place all the materials before the court so that the court will be satisfied about the prima-facie case in



favour of the party seeking the order. It is no part of courts function at this stage of the litigation to try to resolve difficult question of facts and law, which require elaborate evaluation of evidence to be recorded at the trial. The conduct of the parties is also plays an important and vital role in considering the application of this nature.

10. The present suit is instituted for the relief of partition and separate possession against the defendants. To substantiate the case of the plaintiffs they have produced the genealogy tree, RTC extracts, Original SSLC mark card of the plaintiff No.2, Original PUC mark card of the plaintiff No.1 and also passport.

11. Per contra, defendant No.1 has filed his written statement denying the case of the plaintiffs. The defendants No.1 admit the marriage of the plaintiffs mother but denied



the relationship with the plaintiffs. Further, they have contended that plaintiffs have no manner of right, title or interest over the suit schedule properties. But, defendant No.1 has not produced single document to prove his case.

12. Perused the application, affidavit, objection and documents produced by the plaintiffs. On careful perusal of the genealogy tree produced by the plaintiff it can be seen that the plaintiffs and defendant No.1 to 6 are the joint family members. Further, on careful perusal of the RTCs, it can be seen that the suit schedule properties standing in the name of the deceased Lakshamma and her children jointly. It is to be noted here that in the instant suit the plaintiffs have filed for the relief of partition and separate possession against the defendants. Now, the defendants No.1 admitted the marriage of the plaintiff's mother and has seriously disputed the relationship with the plaintiffs. In this



regard, the plaintiffs have produced the SSLC mark card it is standing in the name of the plaintiff No.2 and also another PUC mark card it is standing in the name of the plaintiff No.1, in both mark cards the name of the father is shown as Surayanarayanamurthy.B.R. Further the plaintiffs have produced genealogy tree wherein it can be seen that the plaintiffs and the defendants No.1 to 6 are the joint family members. Hence, at this juncture, this court opines that whether plaintiffs and the defendants No.1 to 6 are the joint family members or not? and also the plaintiffs are the children of the defendant No.1 or not? has to be decided in the full pledged trial. At this juncture the plaintiffs have proved the prima-facie case in their favour. Therefore, the plaintiffs have made out prima-facie case to go for trial. Accordingly, the point under consideration is answered in the "Affirmative".



13. **Point No.2 and 3:-** Both points are interlinked with each other, hence taken up together for common discussion.

The plaintiffs have already made out the prima-facie case in their favour. Further, the plaintiffs have also taken the contention that, the defendants No.1 to 6 are trying to alienate the suit schedule properties, if the properties are alienated, definitely the plaintiffs will be put to hardship and there will be multiplicity of proceedings and the rights of the plaintiffs will be curtailed. Accordingly, the points under consideration are answered in the "Affirmative".

14. **Point No.4 :** Based on findings in Points No.1 to 3, this Court proceeds to pass the following:

**ORDER**

I.A filed by the plaintiffs U/o 39 Rule 1  
and 2 R/w Sec.151 of CPC is allowed.



The defendants are restrained from alienating, encumbering or creating any kind of lien or charge over any of the suit schedule properties, till disposal of the suit.

No order as to cost.

*(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the Open Court on this the 26<sup>th</sup> day of March 2024).*

**(Sri.Mahesh.B.T)**  
**1<sup>st</sup> Addl. Senior Civil Judge & JMFC.,**  
**Ramanagara.**