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**IN THE COURT OF THE SENIOR CIVIL JUDGE &
J.M.F.C., AT CHANNAPATNA**

: PRESENT :

SRI.VENKATESHAPPA V., B.A. LL.B.
Senior Civil Judge & JMFC,
Channapatna

DATED THIS THE 23rd DAY OF APRIL- 2025

O.S.No.23/2019

PLAINTIFFS :

Sri. M.P Ramesh and others
(Rep.By Sri.K.V.Y., Advocate)

-V/S-

DEFENDANTS:

Sri.T.P Puttasiddegowda and others

(Defendant Nos. 1 and 2 are
represented By Sri.M.K.N.,Advocate
and Defendant Nos.3 and 4 are
represented By Sri.N.G., Advocate)

IN I.A.NO.VII

APPLICANT/PLAINTIFFS :

Sri. M.P Ramesh and others

-V/S-

OPPONENT/DEFENDANTS:

Sri.T.P Puttasiddegowda and others



Date of filing of I.A.No.VII	19.03.2025		
Date of Order	23.04.2025		
Duration of the I.A.VII	Year/s 00	Month/s 01	Day/s 05

(VENKATESHAPPA V)
Senior Civil Judge & JMFC
Channapatna

ORDER ON I.A.No.VII U/o.XXXIX RULE 1 & 2 R/W

SEC.151 OF CPC

The learned counsel for plaintiffs filed application I.A.No. VII U/o XXXIX Rule 1 & 2 R/w Sec.151 of C.P.C restrain the defendants from alienating the suit schedule properties until disposal of the case.

- 2) The application is supported by affidavit stating that the grand father of Plaintiff by name M.Channappa and his wife by name Kadamma had four children by name M.C Puttaswamygowda, M.C Thammaiah, M.C. Channappa and M.C. Siddegowda. Among them M. Channappa and his wife Kadamma and their children by name



M.C. Puttaswamygowda and M.C Thammaiah are no more. The wife of M.C Puttaswamygowda by name Jayamma is no more. Their legal heirs are M.P Ramesh, M.P Nagesh, M.P Lingesh, M.P Mahesh, M.P Anusuya and M.P Nagamani. The said M.C Thammaiah being died and his wife by name Nagarathna B.M and son by name M.T Shashikiran are legal heirs of him.

- 3) The Defendants are legal heirs of Siddegowda alias Puttaswamygowda who has two children by name T.P Puttasiddegowda and T.P Krishna, Raghunandan is son of T.P Puttasiddegowda. The said T.P Krishna being died, having legal heirs i.e., his wife by name Latha Krishna and son by name Rahul Krishna.
- 4) The original propositus of Plaintiff by name M. Channappa and defendants by name Siddegowda alias Puttaswamygowda had purchased the suit schedule properties jointly through Registered sale deed dt. 14.11.1957 vide document No.4431/1957-58.



Subsequently, the said the original propositus of Plaintiff by name M. Channappa and defendants by name Siddegowda alias Puttaswamygowda have sold the property bearing Sy. No.877 measuring 1 Acre, 2 guntas situated at Maluru Village and Land bearing Sy.No. 888 measuring 0.38 guntas situated at Maluru Village through Registered sale deed dt.06.10.1961 vide document No.3786/1961-62 jointly in favour of Bhoregowda S/o Yaluvegowda, R/at Thittamaranahalli. After alienating the property by original propositus of Plaintiff by name M. Channappa and defendants by name Siddegowda alias Puttaswamygowda jointly, they retained remaining properties vide MR No.35/1982-83 and continued in possession of said properties. After demises of Chanappa, his sons by name M.C Puttaswamygowda, M.C Thammaiah, M.C Channappa and M.C Siddegowda became tittle olders of properties of said Channappa. But sons of Siddegowda alias Puttaswamygowda by name T.P Puttasiddegowda and T.P Krishna mutated their names vide



IHC No.15/1984-85 illegally in order to deceive successors of M. Channappa. The defendants have created documents in order to defraud the plaintiffs. The defendant No.1 has executed gift deed dt:01.06.2018 vide document No.CAN-1-03968/2018-19, CD No.CAND 282 in favour of his son by name T.P Raghunandan and mutated his name. Likewise, T.P Krishna son of Siddegowda alias Puttaswamygowda has executed gift deed dt:09.09.2015 vide document No.CAN-1-02902/2015-16, CD No.CAND 230 in favour of defendant No.3 & 4 in respect of suit schedule property and mutated their names in order to deceive the plaintiffs. The defendants have denied to affect the partition has per sale deed. The plaintiffs issued notice on 12.01.2018. The defendants replied to the said notice by stating that the said M. Channappa was only nominal party to the sale deed. On 17.03.2025 the defendants have tried to lay compound work in the suit schedule property. In this regard complaint lodged before concerned police station wherein no use. Hence filed this application.



5) The learned counsel for defendant No.1 & 2 filed objections stating that the application is not maintainable either in law or on facts. The suit of plaintiff is barred by law of limitation. The defendants have already constructed farm house in the suit schedule property adjacent to public road and also there is situated air conditioned poultry farm invested more than two cores and fenced the land. If the application is not allowed, no loss or prejudiced no pressure will be caused to the plaintiffs. Hence prays to dismiss the application with cost.

6) Heard arguments and perused the materials available on record.

7) The following points that would arise for my consideration are as under:

POINTS

1. Whether the plaintiffs have made out a prima-facie case?



2. Whether balance of convenience lies in favor of plaintiffs ?
3. Whether the plaintiffs would suffer irreparable injury if interim injunction is not granted?
4. What order?

6) My findings to the above said points are as under:

Point No.1	:	In the Affirmative.
Point No.2	:	In the Affirmative.
Point No.3	:	In the Affirmative.
Point No.4	:	As per order for the following:

:: REASONS ::

7) POINT Nos.1 to 3: These points are interlinked with each other and thereby they are taken up together in order to avoid repetition of facts.

8) This is suit for declaration over the suit schedule property on the basis of sale deed dt. 14.11.1957 purchased by original propositus of Plaintiff by name M. Channappa and original propositus of defendant by name Siddegowda alias Puttaswamy gowda jointly and seeking



half share over the share of M Channappa and declare the Gift deed dt. 01.06.2018 executed by Defendant No.1 in favour of his son by name T.P Raghunandan and declare the Gift deed dt. 09.09.2015 executed by Rahul Krishna and Latha Krishna in favour of Defendant No.3 and 4 are not binding on the rate of Plaintiff.

The Plaintiff took contention that the grand father of Plaintiff by name M.Channappa and his wife by name Kadamma had Four children by name M.C Puttaswamygowda, M.C Thammaiah, M.C Channappa and M.C Siddegowda. Among them M. Channappa and his wife Kadamma and their children by name M.C Puttaswamygowda and M.C Thammaiah are no more. The wife of M.C Puttaswamygowda by name Jayamma is no more. Their legal heirs are M.P Ramesh, M.P Nagesh, M.P Lingesh, M.P Mahesh, M.P Anusuya and M.P Nagamani. The said M.C Thammaiah being died and his wife by name Nagarathna B.M and son by name M.T Shashikiran are legal heirs of him. The Defendants are legal heirs of



Siddegowda alias Puttaswamygowda who has two children by name T.P Puttasiddegowda and T.P Krishna. Raghunandan is son of T.P Puttasiddegowda. The said T.P Krishna being died, having legal heirs i.e., his wife by name Latha Krishna and son by name Rahul Krishna. There is no dispute concerning the relationship between parties to the suit. **Sec.53 of Bharatiya Sakshya Adhiniyam 2023 explains facts admitted need not be proved.** Therefore, I hold that the said fact is admitted fact.

The Plaintiff took contention that the original propositus of Plaintiff by name M. Channappa and Defendants by name Siddegowda alias Puttaswamygowda had purchased the suit schedule properties jointly through Registered sale deed dt. 14.11.1957 vide document No.4431/1957-58. In support thereto the Plaintiff produced sale deed dt. 14.11.1957. Further the Plaintiff took contention that subsequently, the said the original propositus of Plaintiff by name M. Channappa and Defendants by name Siddegowda alias Puttaswamygowda



have sold the property bearing Sy. No.877 measuring 1 Acre, 2 guntas situated at Maluru Village and Land bearing Sy.No. 888 measuring 0.38 guntas situated at Maluru Village through Registered sale deed dt.06.10.1961 vide document No.3786/1961-62 jointly in favour of Bhoregowda S/o Yaluvegowda R/at Thittamaranahalli. In support thereto the Plaintiff produced sale deed dt. 06.08.1961. Further stated that after alienating the property by original propositus of Plaintiff by name M. Channappa and Defendants by name Siddegowda alias Puttaswamygowda jointly, they retained remaining properties vide MR No.35/1982-83 and continued in possession of said properties. In support thereto the Plaintiff produced MR No.32/ 1982-83. It is stated that after demises of Chanappa, his sons by name M.C Puttaswamygowda, M.C Thammaiah, M.C Channappa and M.C Siddegowda became title holders of properties of said Channappa. But sons of Siddegowda alias Puttaswamygowda by name T.P Puttasiddegowda and



T.P Krishna mutated their names vide IHC No.15/1984-85 illegally in order to deceive successors of M. Channappa. Further stated that the defendants No.1 has executed gift deed dt:01.06.2018 vide document No.CAN-1-03968/2018-19, CD No.CAND 282 in favour of his son by name T.P Raghunandan and mutated his name. Likewise, T.P Krishna son of Siddegowda alias Puttaswamygowda has executed gift deed dt:09.09.2015 vide document No.CAN-1-02902/2015-16, CD No.CAND 230 in favour of defendant No.3 & 4 in respect of suit schedule property and mutated their names in order to deceive the plaintiffs. On 17.03.2025 the defendants have tried to lay compound wall in the suit schedule property. Therefore, I hold that the plaintiffs have made out a prima-facie case and balance of convenience lies in-favour of them. When there is prima-facie and balance of convenience, the plaintiffs are entitled to temporary injunction as sought in the plaint. **Hence I answer Point Nos.1 to 3 in Affirmative.**



9) POINT NO.4: In view of my findings on Point Nos.1 to 3,
I proceed to pass the following :

ORDER

The application I.A.No.VII U/o.XXXIX
Rule 1 & 2 R/w Sec.151 of C.P.C., filed
by plaintiff is hereby allowed.

The defendants are hereby restrained
from alienating the suit schedule
properties until further order of this
court.

No order as to costs.

(Dictated to the Stenographer, transcribed and computerized by her, corrected and initialed by me and then pronounced by me in the open court on this the 23rd day of April - 2025).

(VENKATESHAPPA .V)
Senior Civil Judge & JMFC
Channapatna