

KARN210007452024



**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 24th DAY OF JUNE- 2025

O.S.No.203/2024

PLAINTIFFS :

Smt.Vasanthamma & others.

(Represented by Sri.L.A., Adv.)

-V/S-

DEFENDANT:

Sri.Kumar.

(Represented by Sri.R.T., Adv.)

IN I.A.NO.I

APPLICANT/PLAINTIFFS :

Smt.Vasanthamma & others.

-V/S-

OPPONENT/DEFENDANT:

Sri.Kumar.



Date of filing of I.A.No.I	07.08.2024		
Date of Order	24.06.2025		
Duration of the I.A.I	Year/s 00	Month/s 10	Day/s 18

(VENKATESHAPPA V)
Senior Civil Judge & JMFC
Channapatna

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

SEC.151 OF CPC

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

2) The application is supported by affidavit stating that the plaintiffs and defendant are brothers and sisters. The original propositus by name Venkategowda and his wife by name Mahadevamma are parents of plaintiffs. They have five children i.e., plaintiffs and defendant. The parents of plaintiffs were died. The power of plaintiff by name Venkategowda had preformed the marriage of plaintiff No.1



& 2 during his life time. After demise of Venkategowda, his wife by name Mahadevamma had performed the marriage of remaining children with the aid of husband of sister of Mahadevamma by name Puttaswamygowda. The plaintiff No.1, defendant No.1 & 3 have constructed house together and residing there and cultivating the land i.e., suit schedule property item No.1 jointly. In this regard mutation was also effected in the name plaintiff No.1 & 2. The plaintiff never alienated the suit schedule property at any point of time. The plaintiffs performed the marriage of defendant and borne the medical expenses of him. The suit schedule properties are ancestral and joint family properties of plaintiffs and defendant. The suit schedule properties stood in the name mother of plaintiffs after demise of father. Now the suit schedule properties mutated in the name of defendant vide M.R.H34/2019-20 with the consent of plaintiffs. The plaintiffs and defendant are in joint possession and enjoyment of suit schedule properties. The defendant is manager of joint family. The plaintiffs



having right of shares over the suit schedule properties. Now the defendant is trying to alienate and grab the suit schedule properties in order to defraud the plaintiffs by taking advantage of revenue records standing in his name. Hence filed this application.

3) The learned counsel for defendant filed memo adopt Written Statement as objections to I.A.No.I.

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

5) 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 partition and separate possession of suit schedule properties. The plaintiff took contention that the plaintiffs and defendant are brothers and sisters. The original propositus by name Venkategowda and his wife by name Mahadevamma are parents of plaintiffs. They have five children i.e., plaintiffs and defendant. 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 Plaintiffs took



contention that the suit schedule properties are ancestral and joint family properties of plaintiffs and defendant. Further took contention that the plaintiffs and defendant are in joint possession and enjoyment of suit schedule properties and the plaintiffs having right of shares over the suit schedule properties and now the defendant is trying to alienate and grab the suit schedule properties in order to defraud the plaintiffs by taking advantage of revenue records standing in his name. On the other hand, the defendant took contention that the plaintiffs have executed relinquishment deed dt:08.01.2020 in favour of defendant in respect of suit schedule properties. The said fact requires full pledged the trial. 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.I U/o.XXXIX Rule 1 & 2 R/w Sec.151 of C.P.C., filed by plaintiffs is hereby allowed.

The defendant is 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 24th day of June - 2025).

(VENKATESHAPPA .V)
Senior Civil Judge & JMFC
Channapatna