

KARN220015572024



**IN THE COURT OF PRL. CIVIL JUDGE & JMFC,  
AT CHANNAPATNA.**

**Dated: This 18<sup>th</sup> October 2025**

**-. PRESENT :-**

**SRI. YOGESHA K** B.A.L. LL.M., PGDHRM  
Prl. Civil Judge & JMFC,  
Channapatna

**OS.NO.111/2024**

**BETWEEN:**

1. Shri. Nagesha  
S/o Late Motegowda,  
Aged about 47 years,
2. Shri. Nagaraju  
S/o Late Moogegowda,  
Aged about 49 years,

3. Shri. M. Raju,  
S/o Late Moogegowda,  
Aged about 40 years,

All are R/at Maaganoor Village,  
Malur Hobli, Channapatana Taluk,  
Bengaluru Rural District.

... **PLAINTIFFS**

**AND**

1. Shri. Nagegowda S/o Kariputtegowda  
Aged about 65 years.  
R/at Hosurdoddi Village,  
Bevur Mandya post,  
Malur Hobli, Channapatna Taluk.
2. Shri. Karigowda S/o Late Piddegowda,  
Aged about 64 years,
3. Shri. Rajesha M.K. S/o Karigowda,  
Aged about 36 years,

Defendant No.2 and 3 are R/at  
Maaganoor Village, Gowdagere Post,  
Malur Hobli, Channapatna Taluk.

... **DEFENDANT**

**Advocates.**

1. Shri.K.T.T. for Plaintiffs
2. Shri. P.K.V for defendant No.1
3. Shri.H.K. for defendant No.2 and 3

**ORDERS ON I.A.No.VI FILED UNDER ORDER  
XXXIX RULE 1 AND 2 OF C.P.C.**

1. The defendant No.3 has filed I.A. No.VI under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, praying to restrain the plaintiff and men on his behalf from trespass over the suit properties pending the disposal of the suit.

2. In the affidavit annexed to I.A. No.VI, Defendant No. 3 contends that, with regard to Suit Schedule Item No. 2, Ningegowda alias Pittegowda, son of Lingegowda, came into possession of his share of the ancestral property through a partition effected in the year 1966. Accordingly, he has been in enjoyment of land measuring 0 acres and 12 guntas in Survey No. 78/10 situated in Gowdagere Village, Malur Hobli, Channapatna Taluk, which originally belonged to Timmegowda, son of Kempegowda of Maganur Village. It is further contended that, in the same Survey No. 78/10, an extent of 0 acres and 14 guntas was in possession and enjoyment of Ningegowda as of 14-02-1950.

3. It is contended that the said property came to the share of the 3rd Defendant by virtue of a registered partition deed dated 20-02-2024, and the relevant revenue records now stand in the name of the 3rd Defendant. The 3rd Defendant is in lawful possession and enjoyment of the said property. The Plaintiffs have no right, title, or interest in the said property. It is further contended that the present suit has been instituted solely with a malafide intention to cause harassment to the Defendants.

4. The 3rd Defendant has further contended that the Plaintiffs, in connection with the said Item No. 2 and certain other lands purchased by the 3rd Defendant from one Kumarswamy, unlawfully cultivated the land with “halasandhe” crop and, on 01-06-2025, during the ripening stage of the said crop, took advantage of the absence of the Defendants and caused damage to the standing crop by engaging tractor-driven ploughing operations.

5. Upon being informed, the 3rd Defendant sent the said Kumarswamy to the property to prevent further damage. However, when Kumarswamy attempted to intervene, the Plaintiffs allegedly abused him with vulgar

language and issued threats. Thereafter, the Defendants lodged a complaint before the M.K. Doddi Police Station. However, since the matter was of a civil nature, the police did not take any action.

6. The 3rd Defendant has also contended that for the past three weeks, the Plaintiffs have been making repeated attempts to unlawfully trespass into and interfere with the 3rd Defendant's peaceful possession of Suit Item No. 2 and other properties. It is contended that the Plaintiffs are politically influential and are acting with malicious intent to harass the Defendants.

7. It is further contended that the 3rd Defendant, being a peace-loving person, is unable to restrain the Plaintiffs by their own efforts, and hence seeks protection through the intervention of this Hon'ble Court. Since the Plaintiffs have no right, title, or interest over Suit Schedule Item No. 2, granting the interim relief sought would not cause any hardship to them. On the contrary, if the relief is not granted, the 3rd Defendant is likely to suffer irreparable loss, hardship, and may be subjected to unnecessary litigation. Therefore, the 3rd Defendant

prays that the present interim application be allowed in the interest of justice.

8. The plaintiffs have filed statement as objection to the present I.A. No. VI. In the objection the plaintiffs have denied the averments made in the affidavit annexed to the IA No.VI and contended that, they have instituted the present suit seeking partition, declaration, and other consequential reliefs. Upon receipt of summons, the Defendants appeared and filed their written statement. At the time of filing the suit, the Plaintiffs had also filed an application seeking interim relief, which was granted by this Hon'ble Court.

9. It is contended that Defendants No.1 and 2 are brothers and are the grandsons of one Hallilinggowda, whereas the Plaintiffs are the grandsons of Ningegowda @ Lingegowda. There was an oral partition between Hallilinggowda and Ningegowda @ Lingegowda, which was acted upon in respect of certain survey numbers. The remaining schedule properties were left out but were enjoyed separately by the parties, with the lands being bifurcated into equal shares and cultivated accordingly.

10. The Plaintiffs have contended that the said partition was effected long ago, and both parties have been in possession and enjoyment of their respective shares. The Plaintiffs became aware of changes in revenue records only after the demise of the elders in the family. By that time, the father of Defendant No.2 had unilaterally changed the entries in the revenue records and had executed sale deeds in respect of certain lands and delivered possession of some other survey numbers.

11. On obtaining the relevant revenue records, the Plaintiffs came to know about the changes and questioned the same. Initially, the Defendants and their father agreed to set the records right in accordance with actual possession, and the Plaintiffs, believing their assurances, refrained from initiating legal action. However, instead of correcting the entries, the Defendants executed a partition deed among themselves, attempted to get the khata changed, and tried to create encumbrances and alienations in favour of third parties with the intention of defeating the Plaintiffs' lawful rights.

12. The Plaintiffs have contended that, upon realising the malafide intentions of the Defendants, the present suit came to be filed. Subsequent to the filing of the written statement by the Defendants, disturbances were created near the schedule properties. The Plaintiffs assert that they are in peaceful possession and enjoyment of the schedule properties as per the earlier oral partition between their elders. The Defendants and their father, without the knowledge of the Plaintiffs and their elders, managed to get khata entries including the shares of the Plaintiffs fraudulently.

13. The Plaintiffs specifically contended that they are in possession of the entire extent of Item No.2 of the schedule property, whereas the Defendants are in possession of only Survey No.78/11, measuring 9 guntas. However, relying on revenue entries, the Defendants have attempted to interfere with the Plaintiffs' possession of Item No.2. It is stated that the Defendants have no right, title, or interest over Item No.2, and have, in fact, caused a commotion ('galata') against the Plaintiffs with an intention to justify the filing of the present application.

14. It is further contended that the Plaintiffs had already lodged a complaint before M.K. Doddi Police Station on 29.05.2025. After coming to know about this complaint, the Defendants lodged a counter-complaint two days later and obtained an NCR, which they are now using as a basis to file the present application.

15. The Plaintiffs have contended that the revenue documents relied upon by the Defendants have been falsely obtained, and no title deeds have been produced by the Defendants to substantiate their alleged rights over the suit property. On the other hand, the documents produced by the Plaintiffs support their possession and entitlement over the suit schedule properties.

16. In light of the above, the Plaintiffs have contended that the balance of convenience lies in their favour and that the Defendants have not made out any prima facie case for the grant of the relief sought. The Plaintiffs, therefore, pray that the I.A. No. VI filed by Defendant No.3 be dismissed in the interest of justice.

17. Heard the arguments of both side. Perused the materials placed before this Court.

18. Upon hearing arguments and on perusal of materials placed on record the following points arises for consideration.

1. Whether the defendants have made out a prima facie case?
2. Whether the defendants have balance of convenience in their favour?
3. Whether defendants would suffer irreparable injury if the prayer for permanent injunction is not granted?
4. What order?

19. This court answers to the above points is as follows;

POINT No.1	In the Negative
POINT No.2	In the Negative
POINT No.3	In the Negative
POINT No.4	As per final order

for the following;

**:- REASONS :-**

20. **POINT No.1:-** Defendant No.3 has filed I.A. No.VI under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking an order of temporary injunction to restrain the Plaintiffs from interfering with his alleged peaceful possession and enjoyment of a portion of the suit schedule property, specifically Item No.2. It is asserted that Defendant No.3 is in exclusive possession of the said land and that the Plaintiffs have attempted to trespass and interfere unlawfully.

21. Conversely, the Plaintiffs contend that the suit schedule properties are ancestral and joint family properties, and that the present suit is filed seeking partition and other reliefs. They argue that no final partition has taken place and that the properties continue to remain joint. It is their case that Defendant No.2, in collusion with others, is attempting to alter revenue records and alienate properties unilaterally, without consent of all the co-sharers.

22. In support of their claim, the Plaintiffs have produced relevant documentary evidence, including, a genealogical tree dated 16.03.2023 issued by the Tahsildar, RTC extracts of the suit schedule properties, A partition deed dated 20.02.2024, A second genealogical tree dated 24.01.2024 pertaining to the Karigowda family, also issued by the Tahsildar, A letter from the Additional District Commissioner addressed to the Assistant Commissioner regarding cancellation of the genealogical tree dated 16.03.2023, and a notarized copy of the genealogical tree.

23. The Defendants, on their part, have also placed reliance on several documents, including; A xerox copy of the sale deed dated 31.05.1978 executed by the father of Plaintiff No.1, Encumbrance certificates, Xerox copies of a mortgage deed dated 21.10.1966, a sale deed dated 22.06.1966, and a gift deed dated 24.01.2001, An order passed by the Assistant Commissioner dated 07.01.2025 cancelling the genealogical tree of the plaintiff's family, A xerox copy of a partition deed dated 20.02.2004, And photographs of the suit properties allegedly showing possession.

24. At this interlocutory stage, this Court is not required to render a finding on the authenticity or legal validity of these competing documents. However, it is clear from the record that the rights and shares of the parties are highly contested, and the very status of the suit properties, whether they are divided or continue to be joint, is a matter to be adjudicated after full trial.

25. It is a settled principle of law that in a suit for partition, an injunction cannot ordinarily be granted by or against a co-sharer, since possession of one co-sharer is legally deemed to be possession of all, unless there is convincing evidence of ouster or exclusive possession. In the present case, Defendant No.3 has not placed sufficient material to prove that he is in exclusive and settled possession of suit properties to the exclusion of other co-sharers.

26. Although Defendant No.3 relies on revenue records and partition-related documents, the partition deed dated 20.02.2004 and other such documents are disputed by the Plaintiffs, and their evidentiary value is a matter for trial.

Similarly, the Assistant Commissioner's order cancelling the genealogical tree is contested in light of the alternative records produced by the Plaintiffs. The mere mutation or khata entries are not conclusive proof of title or exclusive possession.

27. In view of the above, and particularly because the suit properties are yet to be partitioned by metes and bounds, this Court is of the considered opinion that Defendant No.3 has not made out a prima facie case for grant of injunction to restrain the Plaintiffs, who are admittedly claiming as co-sharers. The claim of exclusive possession is not substantiated with unimpeachable evidence. As such, the Defendant cannot, at this stage, claim an exclusive right to injunctive relief over a property that remains subject to partition. Accordingly, I answer the point No.1 in the Negative.

28. **POINT No.2:** In the present case, the Defendant No.3 seeks to restrain the Plaintiffs from entering or interfering with the possession of Item No.2 of the suit schedule property on the basis of alleged exclusive possession. However, the Plaintiffs claim to be co-sharers

and assert joint possession of the suit properties, denying the exclusive possession claimed by Defendant No.3. Since the dispute revolves around ownership and possession of ancestral properties that are yet to be partitioned by a decree, the principle that possession of one co-sharer is possession of all strongly weighs against the grant of injunction.

29. Granting the injunction in favour of Defendant No.3 would effectively exclude the Plaintiffs from enjoyment or possession of the suit properties without adjudication of their rights, causing undue hardship to the Plaintiffs who are also lawful co-sharers. Conversely, refusal of the injunction does not necessarily cause prejudice to Defendant No.3 since he has not demonstrated exclusive possession, nor irreparable loss from the status quo continuing until final disposal of the suit. Therefore, the balance of convenience favors the Plaintiffs, who continue to enjoy their undisturbed possession as co-sharers until partition is effected. Accordingly, Point No.2 is answered in the **Negative**.

30. **POINT No.3:** The Defendant No.3 contends that he would suffer irreparable injury in the absence of an injunction as the Plaintiffs allegedly trespassed and attempted to interfere with his possession. However, considering the joint family nature of the suit properties and the admitted co-sharer status of the parties, the question of irreparable injury cannot be evaluated in isolation without considering the Plaintiffs' equal rights. The Defendant No.3 has not placed before the Court any clear evidence to establish that the injury suffered is irreparable or that monetary compensation would not suffice.

31. The alleged damage to crops or temporary interference, if any, can be compensated in terms of money, which is not considered irreparable in legal parlance. Additionally, the Plaintiffs' denial of exclusive possession and claim of rightful joint possession further reduces the urgency for injunction. Since the main dispute about possession and partition is yet to be decided, it would be inappropriate to grant injunctive relief on the basis of claimed irreparable injury which is neither

established nor uncontested. Hence, Point No.3 is answered in the **Negative**.

32. **POINT No.4:** For the reasons stated above and findings given on point nos.1 to 3 this court proceeds to pass the following:

**ORDER**

- I A No.VI filed by the defendants under order XXXIX Rule 1 and 2 R/w sec. 151 of CPC is hereby dismissed.
- Parties shall bear their own cost.

[Given under my hand and seal of this court on this 18<sup>th</sup> of October, 2025 within the premises and during the working hours of this Court and is pronounced in an open court.]

**(YOGESHA K)  
PRL. CIVIL JUDGE & JMFC,  
CHANNAPATNA**