

KARN220015572024



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

Dated: This 18th 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.II FILED UNDER ORDER
XXXIX RULE 1 AND 2 OF C.P.C.

1. The plaintiffs have filed I.A. No. II under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, praying for an injunction restraining the defendants from alienating or creating any encumbrance over the suit schedule properties pending the disposal of the suit. They also seek an ad-interim ex-parte injunction order in the interest of equity and justice.

2. In the affidavit annexed to I.A. No. II, Plaintiff No. 3 contends that the suit is filed against the defendants for partition and other reliefs. Defendant Nos. 1 and 2 are mother and brother respectively. The suit schedule properties are ancestral properties of the plaintiffs and defendants and were jointly cultivated following the death of the propositor, Karigowda. Except for the defendants, others are residing outside the village; however, Defendants 1 and 2 have been managing the family affairs, cultivating the suit schedule properties, and allotting portions to themselves and other defendants.

3. Plaintiff No. 3 further states that since his mother is elderly, Defendant No. 2 has assumed charge of the entire family and has been utilizing profits derived from the properties. When questioned, Defendant No. 2 allegedly behaved arrogantly and refused to provide any explanation to other co-sharers.

4. About six months ago, Plaintiff No. 3 assembled all family members and questioned Defendant No. 2's acts, upon which the latter agreed to partition the properties. Subsequently, however, Defendant No. 2 failed to respond and attempted to transfer the 'katha' of the properties in favor of his wife. On becoming aware of this, Plaintiff No. 3 convened a panchayat about a month ago, where Defendant No. 2 refused to effect partition and persisted in attempting to transfer the 'katha' with the intention to alienate the schedule properties.

5. Plaintiff No. 3 states that Defendant No. 2 is acting against the interest of the plaintiffs and it is therefore necessary and essential to obtain an injunction order. The defendants are described as very powerful persons in the

village and the plaintiffs cannot withstand their alleged illegal activities without judicial intervention.

6. It is submitted that if the injunction is granted in favor of the plaintiffs, no harm or injury will be caused to the defendants. On the other hand, the suit will proceed to be heard and decided on merits. Conversely, refusal of the injunction would cause irreparable loss and injury to the plaintiffs, which cannot be compensated in any manner. The balance of convenience is stated to lie in favor of the plaintiffs. Hence, the prayer to allow the application.

7. The Defendant Nos. 2 and 3 have filed a memo adopting the written statement as their objection to the present I.A. No. II. They contend that the plaintiffs have fabricated a false genealogical tree for their convenience and have misrepresented the names in the family tree in the suit petition. According to the Defendants, the correct genealogical tree and names of the family members are as follows:

8. The original ancestor is Basavegowda, who is known by a single name—Basavegowda. He had two sons: the first son Lingegowda and the second son Basavegowda.

9. Lingegowda had one son named Ningegowda alias Piddegowda. Ningegowda had two sons—Nagegowda (1st Defendant) and Karigowda (2nd Defendant). Nagegowda had given adoption to another person and, upon giving such adoption, has relinquished all rights in this family.

10. Karigowda, husband of Lakshamma, has four children: Ratnamma, Rajesh (3rd Defendant), Gauramma, and Gangamma.

11. Similarly, Basavegowda's second son Basavegowda had two sons—Motegowda and Moge gowda. Motegowda has children named Sathyamma, Nagamma, Savithramma, and Nagesh. Moge gowda has children named Shanthamma, Nagaraju Raju M., and Rajamma.

12. It is further submitted that the plaintiffs have not made their sisters—Smt. Sathyamma, Nagamma, Savithramma, Shanthamma, and Rajamma—nor the

defendants' family members Ratnamma, Gauramma, and Gangamma parties to this suit. Further, after the adoption of Nagegowda bin Ningegowda alias Piddegowda by another family, he no longer has any relationship with this family, yet he has been unnecessarily impleaded as a party in this suit.

13. The Defendants further submit that the original ancestor Basavegowda had two sons—Lingegowda and Basavegowda—who had partitioned their ancestral properties during their lifetime and enjoyed their respective shares. The first son Lingegowda's only son, Ningegowda alias Piddegowda, enjoyed his share, and thereafter the present Defendant Nos. 2 and 3 have been enjoying the property described in Survey No. 60/10, with a canal attached and an electricity connection granted by the government under T.C. No. 15659.

14. Similarly, the second son Basavegowda enjoyed his share, which has been inherited by his sons Motegowda and Moge gowda, and subsequently by their children, namely Smt. Sathyamma, Smt. Nagamma, Smt. Savithramma, and Nagesh in Motegowda's line, and Smt.

Shanthamma, Nagaraju Raju M., and Smt. Rajamma in Moge gowda's line.

15. It is also submitted that some of the properties still stand in the names of the ancestors of the defendants. Accordingly, it is prayed to dismiss the application.

16. The Defendant No. 1 has also filed a memo adopting the written statement as objection to the present I.A. No. II.

17. Defendant No. 1 contends that the plaintiffs have fabricated a false genealogical tree for their convenience and have arbitrarily created names to support their claim in the suit. The correct genealogical tree and family members' names are as follows:

18. The original ancestor is Basavegowda, known only by that name, and not as Basavegowda alias Ningegowda or otherwise. He had two sons, the first son Lingegowda and the second son Basavegowda.

19. The first son Lingegowda had one son named Ningegowda alias Piddegowda. Ningegowda had two sons, Nagegowda alias Puttswamy (Defendant No. 1) and Karigowda (Defendant No. 2), which is accepted as correct.

20. Defendant No. 1 further states that he is also known as Nagegowda alias Puttswamy. During his childhood, since he had no children of his own, his paternal grandaunt, Smt. Lingamma, adopted him into her family along with her husband Sri Kariputtegowda. From that time onward, Defendant No. 1 has been the adopted son of the Kariputtegowda-Lingamma family and is their legal heir.

21. Upon adoption, Defendant No. 1 relinquished all rights in the family of Defendant No. 2 and has been enjoying the properties of his adoptive parents. The plaintiffs are aware of this fact but, with an ulterior motive, have unnecessarily impleaded Defendant No. 1 as a party to this suit.

22. It is therefore prayed that Defendant No. 1 be deleted as a party from this suit. The plaintiffs, knowing these facts, have included Defendant No. 1 only to cause him unnecessary trouble. Defendant No. 1 has no connection with this suit or the subject matter thereof. Hence, the prayer is made to dismiss the application with costs.

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

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

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

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

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

for the following;

∴ REASONS ∴

26. **POINT No.1:-** The plaintiffs have filed the suit for partition and other reliefs regarding the ancestral properties described in the suit schedule. The suit properties were jointly cultivated by the plaintiffs and defendants after the death of the ancestor Karigowda. Defendant Nos. 1 and 2 (mother and brother) have been managing the family affairs and properties. Plaintiff No. 3 alleges that Defendant No. 2, who is in charge due to the mother's old age, has been arrogantly handling profits and attempted to transfer the katha in favor of his wife without consent. Plaintiff No. 3 convened a family meeting where Defendant No. 2 initially agreed to

partition but later refused and tried to alienate the properties. Plaintiffs contend the defendants are influential in the village and they are unable to withstand their illegal acts. Hence, they seek an injunction restraining defendants from alienating or creating encumbrances on the suit properties pending the suit's disposal. Plaintiffs argue that if the injunction is refused, they will suffer irreparable loss which cannot be compensated, and the balance of convenience favors them.

27. Defendant Nos. 2 and 3 contend that the plaintiffs fabricated a false genealogical tree to suit their convenience and misrepresented family relationships. The correct family tree shows the ancestral properties were partitioned during the lifetime of the ancestors, and each branch has enjoyed their respective shares. Defendant No. 1 states he was adopted by another family in childhood and relinquished rights in the original family properties, hence should not be a party. Defendants contended that some family members (including sisters of plaintiffs and other relatives) were not made parties, indicating incomplete representation. They assert that the suit properties have been in possession of their respective

lineages lawfully, with government approvals like electricity connection. Defendants deny any wrongful acts or attempts to alienate the properties illegally. They pray for dismissal of the application with costs, claiming the plaintiffs' case is based on falsehoods.

28. The plaintiffs have produced relevant documentary evidence including a genealogical tree dated 16.03.2023 issued by the Tahsildar, RTC extracts of the suit properties, a partition deed dated 20.02.2024, and a genealogical tree dated 24.01.2024 pertaining to the Karigowda family, also issued by the Tahsildar. Further, the plaintiffs have filed a letter from the Additional District Commissioner addressed to the Assistant Commissioner concerning the cancellation of the genealogical tree dated 16.03.2023, and a notarized copy of the genealogical tree.

29. The defendants have filed 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, sale deed dated 22.06.1966, gift deed dated

24.01.2001, and the order passed by the Assistant Commissioner dated 07.01.2025 cancelling the genealogical tree of the plaintiff's family. Additionally, the defendants have produced a xerox copy of a partition deed dated 20.02.2004 and photographs of the suit properties.

30. The plaintiffs have alleged that the suit properties are ancestral in nature and were jointly cultivated by them and the defendants after the death of the ancestor, Karigowda. It is stated that Defendant Nos. 1 and 2 have been managing the family affairs, with Defendant No. 2, due to the mother's old age, handling the properties and profits. Plaintiff No. 3 claims that Defendant No. 2 attempted to alienate the properties by transferring the katha to his wife without consent and subsequently refused to partition the properties despite prior agreement at a family meeting.

31. The plaintiffs also contend that the defendants are influential in the village and that they are unable to prevent alleged illegal acts without judicial intervention. They seek an injunction to prevent alienation or

encumbrance of the suit properties, asserting that failure to grant such relief would cause irreparable harm.

32. The defendants have challenged the plaintiffs' case primarily on genealogical grounds, claiming the ancestral properties were partitioned earlier and enjoyed separately by the respective branches. They also state that Defendant No. 1 was adopted and relinquished his rights in the family properties, and question the inclusion of certain parties. The defendants deny any wrongful alienation or mismanagement.

33. The plaintiffs have supported their case with documents including genealogical trees issued by the Tahsildar, RTC extracts, and a partition deed. The defendants have produced various sale deeds, mortgage deeds, gift deeds, and an official order canceling the genealogical tree of the plaintiffs' family.

34. Considering the rival contentions and the materials on record, the plaintiffs have sufficiently established a prima facie case that warrants further inquiry. The allegations of attempted alienation of ancestral properties

and refusal to partition as agreed require judicial protection at this stage. Accordingly, this Court holds that the plaintiffs have made out a prima facie case for the purpose of granting interim relief. Accordingly, I answer the point No.1 in the **Affirmative**.

35. **POINT No.2:** In the present case, the plaintiffs have asserted that the suit schedule properties are ancestral in nature, and that the defendants, particularly Defendant No. 2, has attempted to alienate or encumber these properties without the consent of all the co-sharers. The plaintiffs have further contended that such acts of alienation would prejudice their rights and interests in the properties and cause significant loss that cannot be easily compensated by monetary damages.

36. The defendants, however, contend that the properties were previously partitioned and that each party is in lawful possession of their respective shares. They deny any attempt to illegally alienate or create encumbrances on the properties. The defendants have produced documents to support their possession and claims.

37. Despite the defendants' contentions, the prima facie case made out by the plaintiffs indicates a real risk of alienation or disposal of properties during the pendency of the suit. If the court refuses to grant injunction relief, the plaintiffs may suffer damage that is not only difficult to quantify but also irreversible, given the unique and ancestral nature of the properties.

38. Granting an injunction to maintain the status quo during the pendency of the suit protects the interests of all parties by ensuring that the properties are not transferred, alienated, or encumbered in a manner that may frustrate the ultimate decree of the court. The hardship likely to be suffered by the plaintiffs in the absence of such protection is greater than any inconvenience caused to the defendants by a temporary restraint on alienation. Thus, on a balance, the convenience lies in favour of the plaintiffs. Hence, this point is answered in the **Affirmative**.

39. **POINT No.2:** The plaintiffs have averred that the suit properties are ancestral and of a unique character, implying that loss or alienation of such properties would

be irreplaceable. Ancestral properties often have sentimental, historical, and familial significance beyond mere market value, and once alienated or encumbered, the plaintiffs' rights could be irretrievably damaged.

40. Plaintiff No. 3 has specifically alleged that Defendant No. 2, acting arrogantly and without the consent of the other co-sharers, attempted to transfer the katha to his wife and refused to honor the partition agreed upon during a family meeting. Such acts, if allowed to proceed, would alter the status quo and cause harm that no subsequent monetary compensation can fully remedy. Moreover, the plaintiffs contend that the defendants are influential persons in the village and that they are unable to effectively resist these alleged illegal acts without the protection of the court. This increases the risk of unauthorized alienation or encumbrance.

41. Although the defendants deny these allegations, at this interim stage, the court must take into account the likelihood of irreparable harm if the injunction is refused. Since the loss of ancestral property rights cannot be restored easily and the plaintiffs' claim has prima facie

merit, the court is satisfied that the plaintiffs will suffer irreparable injury in the absence of an interim injunction. Hence, this point is answered in the **Affirmative**.

42. **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.II filed by the plaintiffs under order XXXIX Rule 1 and 2 R/w sec. 151 of CPC is hereby allowed.
- The defendants are directed to maintain the status quo with regard to the suit schedule properties until further orders of this Court.
- Parties shall bear their own cost.

[Given under my hand and seal of this court on this 18th 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