

KARN320010362024



**IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC., AT
kanakapura**

Dated this 16th Day of June 2026

**Present: Sri.Vinay .V. Kundapur B.A.L., LL.B.,
II Addl. Civil Judge and JMFC.,
Kanakapura.**

O.S. No.153/2024

PLAINTIFF : Smt. Rukmini

/Vs/

DEFENDANTS : Sri. Kenchegowda and others.,

INTERLOCUTORY APPLICATION No.I

APPLICANT : Smt. Rukmini plaintiff

(By Sri.T.K.R., Advocate)

/Vs/

OPPONENTS : Sri. Kenchegowda and others., ...defendants

(By Sri.P.S.D., Advocate)



1	Provision under which the application is filed	:	U/O 39 Rule 1 and 2 of CPC
2	Relief Sought for	:	Partition and separate possession
3	The date on which the application is filed	:	22.04.2024
4	The date on which the objection is filed by opponents	:	24.02.2025
5	The date on which the order was passed on the said application	:	16.06.2026

ORDER ON I.A No. I FILED UNDER Or. 39 R.1 & 2 OF CODE OF CIVIL PROCEDURE, 1908

This application is filed by the applicant/plaintiff seeking an ad interim order of temporary injunction restraining the defendant No.4, his agents, servants or anybody acting on his behalf from alienating the suit schedule property infavour of third person, pending disposal of the suit in the interest of justice.



2. In the accompanying affidavit plaintiff submits that, she has filed the above suit against the defendants for the relief of partition and separate possession with respect to the suit schedule property. She submits that, herself and the defendants No.1 and 2 constitute a Hindu undivided joint family and joint family own and possessing the suit schedule property. The katha of the suit schedule property was made out in the name of the defendant No.1. The suit schedule property is the joint family property of herself and the defendants No.1 and 2. There is no division between plaintiff and the defendant No.1 and 2. Plaintiff is having equal right and share over the suit schedule property.

Plaintiff further submits that, she came to know about the said fact though well-wishers and elderly people in locality about one month back that, taking advantage of the katha of the suit schedule property made out in the name of the defendant No.1, with an



intention to defraud the right and share in the suit schedule property, the defendant No.1 has illegally sold the suit schedule property infavour of the 3rd defendant through registered sale deed dated 06.05.2016, the defendant No.1 has no exclusive right to sell the suit schedule property infavour of the 3rd defendant and as such sale deed is invalid, null and void ab-initio.

Plaintiff further submits that, on the basis of alleged sale deed, the 3rd defendant has not accrued any valid title over the suit schedule property. At no point of time, the 3rd defendant came in possession of the suit schedule property. The katha of the suit schedule property illegally made out infavour of the 3rd defendant. Taking advantage of the katha of the suit schedule property made out in the name of defendant No.3, the defendant No.3 and his wife Smt. Kempamma has illegally sold the suit schedule property infavour of the 4th defendant through a registered sale deed dated



28.06.2023. The defendant No.3 and his wife Smt. Kempamma have no exclusive right to sell the suit schedule property infavour of the 4th defendant and as such sale deed is invalid, null and void ab-initio. On the basis of alleged sale deed, the 4th defendant has not accrued any valid title over the suit schedule property. At no point of time, the 4th defendant came in possession of the suit schedule property. The katha of the suit schedule property illegally made out infavour of the 4th defendant behind her back.

Plaintiff further submit that, the 4th defendant taking undue advantage of the fact that the katha standing in his name, he is making hectic arrangements to alienate the suit schedule property infavour of third person by neglecting plaintiff due and legitimate share. In this regard, he might have received huge advance from the parties. The defendants are very powerful persons in the locality having men, money, might and influence. On the other



hand, plaintiff is weak lady having no support of any kind in the village. Plaintiff submits, she is not in a position to restrain the 4th defendant from alienating the suit schedule property. If the 4th defendant is succeeding in his illegal task, she will have to suffer huge loss and irreparable injuries. Hence it is just and necessary for restraining the defendant No.4 from alienating the suit schedule property infavour of third person. On all these grounds plaintiff prays to allow the application.

3. On the contrary, defendant No.4 has appeared through his counsel and filed written statement along with memo for adopting the written statement as objection to the IA U/o 39 Rule 1 & 2 of CPC. The defendant No.4 submits that, he is the absolute owner of the suit schedule property bearing Sy No. 74/8, measuring to an extent of 0.01.04 guntas (old Sy No. 74/5) situated at Doddamaralavadi Village, Maralavadi Hobli, Harohalli Taluk,



Ramanagara District. The defendant No.4 had acquired the suit schedule property through registered deed of sale from the defendant No.3 on 28.06.2023 registered office in the office of the sub-registrar, Kanakapura. Thereafter the defendant No.4 had transferred the katha of the suit schedule property and defendant No.4 is having peaceful possession of the same. The plaintiff has no manner of right title, possession of the same over the suit schedule property.

Further defendant No.4 submits that, the defendant No.3 had acquired the suit schedule property through registered deed of sale from the defendant No.1 on 06.05.2016 in the office of Sub-registrar, Kanakapura. Thereafter the defendant No.3 had transferred the katha of the suit schedule property vide MR H No.85/2015-16 and defendant No.4 was having peaceful possession of the same.



The defendant No.4 further submits that, originally the first defendant was the original owner of the property bearing Sy No.74/8 (old No. 74/5) measuring to an extent of 0.03.12.00 guntas, situated at Doddamaralavadi Village, Maralavadi Hobli, Harohalli Taluk, Ramanagara District. The defendant No.1 had acquired the said property through registered deed of sale from his vendor on 09.06.2015 in the office of Sub-registrar, Kanakapura. Thereafter the defendant No.1 had transferred the katha of the suit schedule property vide MR H No. 70/2014-15 and defendant No.1 was having peaceful possession of the same till the date of alienation of the portion of the said property infavour of the defendant No.3. There is no point of time the plaintiff was in joint possession of the suit schedule property. The plaintiff has filed above frivolous suit against the defendant No.4 with respect of the suit schedule property to make unlawful gain. The plaintiff had approached this Hon'ble Court to harass the defendant No.4 and knockout the



valuable property of the defendant No.4. The plaintiff had not stated that, how the first defendant had acquired the schedule property. Hence, prays to dismiss the application with exemplary costs.

4. Heard and perused material available on record.

5. On perusal, following points arise for my consideration:

- i: Whether the plaintiff has made out prima facie case ?
- ii. Whether balance of convenience lies in favour of plaintiff ?
- iii: Whether plaintiff would be put to irreparable loss and hardship if the injunction is not granted ?
- iv: What order ?

6. My answers to the aforementioned points are as under:

Point No.i : In the negative,

Point No.ii : In the negative,

Point No.iii : In the negative,

Point No.iv: As per the final order

for the following;



REASONS

7. **Point No.i:** The plaintiff has instituted this suit against the defendants for partition and separate possession.

8. The contention of the plaintiff that, the katha of the suit schedule property was made out in the name of the defendant No.1. The suit schedule property is the joint family property of herself and the defendants No.1 and 2. There is no division between plaintiff and the defendant No.1 and 2. Plaintiff is having equal right and share over the suit schedule property. The defendant No.1 has illegally sold the suit schedule property infavour of the 3rd defendant through registered sale deed dated 06.05.2016, the defendant No.1 has no exclusive right to sell the suit schedule property infavour of the 3rd defendant and as such sale deed is invalid, null and void ab-initio.



Plaintiff further submits that, on the basis of alleged sale deed, the 3rd defendant has not accrued any valid title over the suit schedule property. At no point of time, the 3rd defendant came in possession of the suit schedule property. The katha of the suit schedule property illegally made out infavour of the 3rd defendant. Taking advantage of the katha of the suit schedule property made out in the name of defendant No.3, the defendant No.3 and his wife Smt. Kempamma has illegally sold the suit schedule property infavour of the 4th defendant through a registered sale deed dated 28.06.2023. The defendant No.3 and his wife Smt. Kempamma have no exclusive right to sell the suit schedule property infavour of the 4th defendant and as such sale deed is invalid, null and void ab-initio. On the basis of alleged sale deed, the 4th defendant has not accrued any valid title over the suit schedule property. At no point of time, the 4th defendant came in possession of the suit schedule



property. The katha of the suit schedule property illegally made out infavour of the 4th defendant behind her back.

On the other side defendant No.4 denied the averment made in the application and submits that, he is the absolute owner of the suit schedule property bearing Sy No. 74/8, measuring to an extent of 0.01.04 guntas (old Sy No. 74/5) situated at Doddamaralavadi Village, Maralavadi Hobli, Harohalli Taluk, Ramanagara District. The defendant No.4 had acquired the suit schedule property through registered deed of sale from the defendant No.3 on 28.06.2023 registered office in the office of the sub-registrar, Kanakapura. Thereafter the defendant No.4 had transferred the katha of the suit schedule property and defendant No.4 is having peaceful possession of the same. the defendant No.3 had acquired the suit schedule property through registered deed of sale from the defendant No.1 on 06.05.2016 in the office of Sub-registrar,



Kanakapura. Thereafter the defendant No.3 had transferred the katha of the suit schedule property vide MR H No.85/2015-16 and defendant No.4 was having peaceful possession of the same.

The defendant No.4 further submits that, originally the first defendant was the original owner of the property bearing Sy No.74/8 (old No. 74/5) measuring to an extent of 0.03.12.00 guntas, situated at Doddamaralavadi Village, Maralavadi Hobli, Harohalli Taluk, Ramanagara District. The defendant No.1 had acquired the said property through registered deed of sale from his vendor on 09.06.2015 in the office of Sub-registrar, Kanakapura. Thereafter the defendant No.1 had transferred the katha of the suit schedule property vide MR H No. 70/2014-15 and defendant No.1 was having peaceful possession of the same till the date of alienation of the portion of the said property infavour of the defendant No.3. There is no point of time the plaintiff was in joint possession of the suit



schedule property. The plaintiff has filed above frivolous suit against the defendant No.4 with respect of the suit schedule property to make unlawful gain.

9. In support of the application, the plaintiff produced notarized genealogical tree, certified copies of RTC extracts pertaining to the suit schedule property and encumbrance certificate.

10. The present suit filed by the plaintiff against the defendant for the relief of the partition and separate possession of suit schedule items. The plaintiff to prove her case has produced documents by the pertaining to the suit schedule property that is, sale deed dated 06.05.2016 made by his defendant No.1 infavour of defendant No.3. Further also produced the sale deed dated 28.06.2023 made between defendant No.3 and defendant No.4. The main contention of the plaintiff is that, the suit schedule property is the joint family



property of plaintiff and defendant No.1 and 2 also submits that, she is having equal right over the suit schedule property.

On the other hand defendant denied the contention taken by the plaintiff and submits that, the suit schedule property is the self acquired property of defendant No.1 to prove the same he has produced sale deed dated 09.06.2015 which clearly discloses the fact that, the suit schedule property is purchased by the defendant No.1 from Narasegowda and his family members same was registered Sub Registrar office Kanakapura. Further he also produced encumbrance certificate with respect to suit schedule property which clearly discloses that, defendant No.1 is the purchaser of the suit schedule property. So on perusal of the documents produced by the plaintiff and defendant this court come to the conclusion that, with no point of time the plaintiff was in joint possession over the suit schedule property. Hence the



plaintiff has failed to prove the fact that, she is having equal right over the suit schedule property. Hence at this juncture granting injunction against the defendant will not serve purpose of the case. Hence this court answered point No.1 in the **Negative**.

11. Point No.ii & iii: With regard to balance of convenience and irreparable loss is concerned, balance of convenience is the relative factor which means the comparative loss caused to the party, in case the injunction is not granted. In this case, the plaintiffs have not made out prima facie case as discussed above and balance of convenience lies in favour of him. If T.I is not granted infavour of the plaintiffs, he may suffer irreparable loss and hardship. Hence, these two points are answered in the **Negative**.

12. Point No.iv : In view of findings on point No. 1 to 3, this courts proceed to pass the following :



ORDER

I.A. No.I filed by the Plaintiff U/o

39. R. 1 & 2 of C.P.C, hereby dismissed.

No order as to cost.

*(Dictated to the stenographer directly on Computer, typed by her, corrected, signed and then pronounced by me in the open court on **16th Day of June 2026**).*

Sd/-

(VINAY .V. KUNDAPUR)
II Addl. Civil Judge & JMFC.,
Kanakapura.







(Order pronounced in open court
vide separate order)

ORDER

I.A. No.I filed by the Plaintiff U/o 39.
R. 1 & 2 of C.P.C, hereby dismissed.
No order as to cost.

**II Addl. Civil Judge & JMFC.,
Kanakapura.**

For issues
Call on: 08.07.2026

**II Addl. Civil Judge & JMFC.,
Kanakapura.**