

KARN320081692021



Presented on : 03-12-2021  
Registered on : 03-12-2021

**IN THE COURT OF THE ADDL. CIVIL JUDGE &  
JMFC., KANAKAPURA**

Present: Smt. Radha S, B.A., LL.M.,  
Addl. Civil Judge & JMFC.,  
Kanakapura.

**Dated this the 08<sup>th</sup> day of January 2025**

**O.S./385/2021**

Plaintiff:- Sri. Nagaraju  
S/o Late Ramegowda,  
Aged about 42 years,  
R/o: Jaraganahalli Main Road,  
Ganapathipura,  
J.P.Nagara 6<sup>th</sup> Phase,  
Bengaluru.

**(By Sri. C.S.N., Advocate)**

**.Vs.**

Defendants:- 1. Smt. Jayamma  
W/o late Ramegowda,  
Aged about 60 years,  
R/at: Nayakanahalli Village,  
Uyyambahalli Hobli,  
Kanakapura Taluk,  
Ramanagara District.

2. Sri. Muniraju  
S/o Late Ramegowda,  
Aged about 45 years,  
R/at:No.154/11,  
Saplamma temple Road,  
Kodikarenahalli,  
Bengaluru.
3. Sri. Nagalinga @ Nagaraju  
S/o Late Ramegowda,  
Aged about 48 years,  
R/at:150,1<sup>st</sup> Main,  
2<sup>nd</sup> cross, Chandrappa Layout,  
Lakkasandra,  
Bengaluru.
4. Sri. Alfred A.Mathew  
S/o Abraham Mathew,  
Aged about 55 years,  
R/at:No.583, 17<sup>th</sup> 'D' Main,  
6<sup>th</sup> E Cross, 6<sup>th</sup> Block,  
Koramangala,  
Bengaluru.
5. M/s.Mat Bio Fuel Plantations  
Private Limited,  
No.7, Range Forms,  
Thalaghattapura Post,  
Kanakapura Road,  
bengaluru-92,  
Represented by its  
managing Director,  
Mr.George Abrham,  
S/o Abraham Mathew.

**(By Sri. Guruprasad.C Adv., for D1 to D3  
Sri. Puttaswamy., Adv., for D4 to D5 )**

**PARTIES TO IA No.I**

Applicant / plaintiff : Sri. Nagaraju

Vs.

Opponents/defendants : Smt. Jayamma and others

(Smt. Radha.S)  
Addl. Civil Judge & JMFC.,  
Kanakapura.

**ORDERS ON I.A. NO.I FILED BY THE PLAINTIFF UNDER  
ORDER XXXIX RULE 1 AND 2 R/W SECTION 151 OF C.P.C**

This is an application filed by the plaintiff requesting the court to pass an order of temporary injunction against defendants, to restrain them, their agents, servants or anybody acting on their behalf from alienating the suit schedule properties to anybody in any manner till the disposal of the suit.

**2.** The defendants have appeared before the court through their counsel.

**3.** On the bases of application filed by the plaintiff, the following points would arise for the consideration of this court.

1. Whether the plaintiff has made out prima-facie case?

2. Whether balance of convenience lies in favour of plaintiff?

3. Whether irreparable loss and injury would be caused to plaintiff if temporary injunction is not granted?

4. What order?

4. Heard the arguments canvassed by the learned Sri. C.S.N Advocate for the plaintiff at length in great detail on IA No.I. Scrutinized the records of the case.

5. On hearing the arguments and on perusal of the materials placed on record my answers to the above points are as under:

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

### **REASONS**

6. **Point No.1:-** Admittedly, plaintiff has filed this suit against defendants for the relief of partition and separate possession in respect of the suit schedule properties.

7. The present application is supported by the affidavit of the plaintiff, who deposed that the suit schedule properties were originally belonged to one Ramegowda who got the same under partition. The suit schedule properties are the ancestral and joint family properties of the plaintiff and defendants. There is no division between the plaintiff and defendants in respect of the suit schedule properties. The plaintiff is also having his legitimate share in the suit schedule properties. When the

plaintiff approached the defendants and requested them to allot his legitimate share in the suit schedule properties. But the defendants didn't allot the same. Now in order to defraud the share off the plaintiff the defendants are trying to alienate the suit schedule properties to others as such without having any other go the plaintiff has come up with present suit along with present application. On these grounds the plaintiff sought to allow the present application.

**8.** I have gone through the pleadings of the plaintiff and documents available on record, the plaintiff in support of his contention has produced G-tree written on non-judicial stamp, RTCs, Photostat copy of mutation extract and Photostat copy of sale deed dated 23-11-2010. These documents prima-facie shows that, the plaintiff has made out prima-facie case in his favour at this stage to grant temporary injunction as prayed for. The genuineness of the documents cannot be seen at this stage as that can be seen at the time of trial. These documents prima-facie shows that, the plaintiff has made out prima facie case in his favour at this stage to grant temporary injunction as prayed for. The genuineness of the documents cannot be seen at this stage as that can be seen at the time of trial. If defendants alienated the suit schedule properties the rule of lis-pendense will apply and it leads to multiplicity of proceedings. If the defendants are restrained from alienating the suit schedule properties till disposal of suit no injustice would be caused to defendants, otherwise it causes irreparable loss and injury to the plaintiff. The merit of the case cannot be decided at this stage. Considering the nature of the suit and materials available on

record this court is of the opinion that plaintiff has made out prima-facie case and balance of convenience lies in his favour. For these reasons this court answers point No.1 in Affirmative.

**9. Point No.2 and 3:-** Since these two points are interconnected to each other as such in order to avoid repetition of facts and reasons they are taken together for common consideration.

**10.** In the present case trial has to be conducted to prove the case of plaintiff but at this stage it seems to the court that, till the disposal of the suit the defendants must restrain from alienating the suit schedule properties, If the defendants alienated the suit schedule properties, the very purpose of filing of the suit shall be defeated, as such no harm or injustice will be caused to the defendants if this application is allowed. Validity and genuineness of the documents can be seen at the time of deciding the case on merits. Since the plaintiff has approached the court with some relief as such I am of the considered opinion that, defendants are to be restrained from alienating the suit schedule properties till disposal of the suit. If order of injunction is not granted definitely irreparable loss and injury would be caused to the plaintiff rather than the defendants. Hence this court answers Point Nos. 2 and 3 in the Affirmative.

**11. Point No.4:-** In view of discussion made on point No.1 to 3 above, I proceed to pass the following;

**ORDER**

I.A.No.I filed Under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC by the plaintiff is hereby allowed.

Defendants, their agents, servants or anybody acting on their behalf are hereby restrained by way of temporary injunction from alienating the suit schedule properties to anybody in any manner till the disposal of the present suit.

Cost of this I.A. shall follow the final result of the suit.

*(Dictated to the stenographer directly on computer, corrected by me then the Stenographer has taken print out, after taking printout corrected, signed and then order pronounced by me in open court on **8<sup>th</sup> day of January 2025**)*

(Smt. Radha.S)  
Addl. Civil Judge & JMFC.,  
Kanakapura.