



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C., AT MAGADI.**

Present: Sri. Shivakumar R., B.A.L., LL.B.,
Additional Senior Civil Judge & JMFC, Magadi.

Dated: 19th Day of August 2025

ORIGINAL SUIT NO.40/2022

Plaintiff : Smt. Lakshamma,
W/o. Late. Nanjundaiah,
Aged about 70 years,
R/at: Kallattipalya Village,
Solur Hobli, Magadi Taluk,
Ramanagara District.

(By Sri. M.R.R. Advocate)

---V/s---

Defendants : 1. Smt. Jayamma,
W/o. Late. Narayanappa,
Aged about 65 years,



2. Smt. Yashodha,
W/o. Venkatachalaiah,
D/o. Late. Narayanappa,
Aged about 48 years,

3. Smt. Mamatha,
W/o. Late. Siddalinga,
Aged about 35 years,
R/at: Kannughatta Village,
Belagarahatti Post,
Nonavinakere Hobli,
Thipatur Taluk,
Tumkur District.

4. Smt. Hemavathi,
W/o. Chandrappa,
Aged about 33 years,
R/at: Lakkenahalli Village,
Nagavalli Post, Hebbur Hobli,

KARN410000522022



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O.S.No.40/2022(Or.)

Tumkur Taluk & District.

5. Smt. Siddagamma,
W/o. Anantharamaiah,
Aged about 31 years,

D1, 2 & 5 are R/at:

Palanahalli Village,

Solur Hobli, Magadi Taluk,

Ramanagara District.

(D1, 2, 4 & 5 by Sri. H.N.S. Advocate)

(D3 Exparte)

PARTIES TO I.A.NO.1

Applicant : Smt. Lakshamma

Vs.

Opponents : Smt. Jayamma & Ors.,



ORDER ON I.A.NO.1

The applicant/plaintiff has filed this interlocutory application under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC for the relief of temporary injunction restraining the defendants, their agents, servants, family members, henchmen or acting on their behalf etc., from alienating or encumbering over the suit schedule properties in any manner pending disposal of this suit.

2. In the accompanying affidavit to the I.A. No.1, the plaintiff states that, she has filed this suit for the relief of partition and separate possession and also filed an application under order 39 rule 1 and 2 read with section 151 of C.P.C for restraining the defendants, their agents, servants, family members, henchmen or acting on their behalf etc., from alienating or encumbering in manner in respect of the suit schedule properties till pending and disposal of the suit.



3. If it is further stated that, the plaintiff and defendants are the members of the undivided Hindu Joint family and they are governed by Hindu Mithakshara Law. The suit schedule properties which are the ancestral and joint family properties of the plaintiff and defendants and they are in joint possession and enjoyment of the same.

4. It is further stated that, one Venkataramanaiah S/o Rangaiah is the Moolapurusha and his wife by name Smt. Venkatarangamma and both are no more. That above said Venkataramaiah and Smt. Venkatarangamma had 2 children by name Sri. Nanjundaiah and Sri. Narayanappa and both are no more. That the 1st son Nanjundaiah died about 45 years back and Narayanappa died about 3 years back. That 1st son Nanjundaiah is the husband of the plaintiff and defendants are the legal heirs of 2nd son Narayanappa. That the 1st defendant is the wife and to them 3 daughters I.e.,



defendants No. 2, 4 & 5 and a son by name Siddalinga who is no more and his wife defendant No.3.

5. It is further stated that, the husband of the plaintiff, who is the 1st son of Venkataramanaiah who died earlier and after his death his brother I.e., 1st defendant's husband Narayanappa managing the ancestral and joint family property since he is the male member of the joint family. During the life time of the husband of the plaintiff Nanjundaiah and his brother Narayanappa and after their deaths and till today there is no partition among the plaintiff and defendants in respect of the suit schedule properties.

6. It is further stated that, the suit schedule properties are the ancestral and joint family properties of the plaintiff and defendants. During the life time of Narayanappa he was managing the joint family properties and after his death, his wife Smt. Jayamma I.e., 1st defendant has entered the katha in her name in respect of the suit schedule properties under



the IHC without noticing and without allotment of the share to the plaintiff. The plaintiff further stated that, in respect of the suit schedule properties the plaintiff and defendants are in jointly cultivating and enjoying by raising the crops and they are in joint possession.

7. It is further stated that, the 1st defendant is aged lady and she is not at all managing the suit schedule properties and she is acting to the tune of other defendants and she is not properly maintaining the suit schedule properties. The defendants have colluded together and trying to alienate the suit schedule properties without the knowledge of the plaintiff and without effecting partition. Hence, this application.

8. In spite of service of suit summons, the defendant No.3 called out, remained absent and placed exparte.

9. After service of summons the defendant No.1, 2, 4 & 5 have appeared through their counsel and filed detailed



written statement and resisted the suit of the plaintiffs. The defendant No.1, 2, 4 & 5 have filed the memo adopting the written statement averments as objection to I.A.No.1. The defendant No.1, 2, 4 & 5 in their written statement they have totally denied the plaintiff's case and interalia contended that, one Sri. Venkataramanaiah S/o. Nanjundappa @ Nanjundaiah is the Moolapurusha of the defendants' family not the ancestor of plaintiff. As admitted by the plaintiff family Moolapurusha is Venkataramanaiah S/o. Rangaiah and he is not ancestor of defendants' family. The ancestor and Moolapurusha of defendants' family Sri. Venkataramaiah married one Smt. Venkatarangamma and the said Sri.Venkataramanaiah S/o. Nanjundappa @ Nanjundaiah and Smt. Venkatarangamma have two sons by name Sri.Nanjundaiah and Sri. Narayanappa i.e., 1st defendant husband and defendant No.2, 4 and 5s' father. The 1st son Sri. Nanjundaiah is the elder son and who is the unsound minded person. So, the 1st son of Venkataramanaiah S/o.



Nanjundappa @ Nanjundaiah i.e., Nanjundaiah was not married due to the unsound mind and the said 1st son Nanjundaiah was died about more than 60 years back that too marriage of 2nd son Narayanappa before 5 years earlier. The 2nd son Narayanappa is also irresponsible person in the family and he is not doing the work as per the instruction of his father and no one is maintained the family and properties. For which, the said Venkataramanaiah S/o. Nanjundappa @ Nanjundaiah got married to his 2nd son Narayanappa with the same villager/resident i.e., 1st defendant Smt. Jayamma about 55 years back. After marriage was held with Narayanappa, the 1st defendant is taken all responsibilities of family of defendants due to her husband Narayanappa is the careless person in family. For which, the Moolapurusha Venkataramanaiah S/o. Nanjundappa @ Nanjundaiah having hand loans with Smt. Siddamma is of Rs.500/- and Sri.Mallaiah is of Rs.400/- by executing On-demands. The said hand loans are not repaid to the said Smt. Siddamma



and Sri. Mallaiah. For which, the said Venkataramanaiah S/o. Nanjundappa is ready to sold the portion of the 3rd item of the suit property, for which the parents of 1st defendant have purchased in the name of 1st defendant and the said Venkataramanaiah has executed a Registered Sale Deed dated: 19.12.1974, vide Reg. No.4283/1974-75 in favour his own sister-in-law and Narayanappa wife Smt. Jayamma i.e., 1st defendant with respect to portion of 3rd item of the suit schedule property i.e., Sy.No.20/2 measuring to an extent of 2-00 acres of land for valuable consideration of Rs.1,000/- by mentioning wrong Sy.No.91. But the boundaries shown the above said sale deed is covers the boundary of 3rd item of the suit schedule property and the said Venkataramanaiah handed over the physical possession and enjoyment of portion of the 3rd item of the suit schedule property i.e., 2-00 acres only. So, the 2-00 acres out of the 3rd item of the suit schedule property is the self-acquired property of 1st defendant. The khata and pahani also standing in her name



exclusively and she obtained crops loan of Rs.50,000/- from VSSN, Banavadi, Magadi Taluk by executing the simple mortgage deed. The 1st defendant is having an exclusive right, title, interest and possession over the portion of 3rd item of the suit schedule property i.e., 2-00 acre. The Original Crops Loan deed dated: 22.02.2018 is the custody of the Manager, VSSN, Banavadi.

10. It is further contended by the defendants that, in 3rd item of the suit schedule property is also included the property of One Sri. Venkatachalaiah S/o. Puttaiah who is the brother son of Moolapurusha Venkataramanaiah. So, the suit is bad for inclusion of some others property along with 1st defendant property and non-joinder of necessary parties. The plaintiff is not the family member of the defendants family and what she says about the relationship is strictly and strongly denied by the defendants as stated in the plaint. The



plaintiff is the unknown person to the property and family of defendants.

11. It is further contended by the defendants that, the 1st son Nanjundaiah was died unmarried. After the death of 1st son Nanjundaiah, the said Venkataramanaiah S/o. Nanjundappa @ Nanjundaiah was married to irresponsible 2nd son Narayanappa with the 1st defendant. After the marriage of 1st defendant with Narayanappa, the 1st defendant is taking responsible for leading their family and family properties i.e., to suit item No.1 and 2. The 1st item of the suit schedule property is stands in the joint names of 1st defendant and One Sri. Sanjeevaiah S/o. Srinivasaiah in total extent of 4 acres 29 guntas as per the MR H16/2020-21. Earlier to that, khata and pahani is stands in the name of 1st defendant husband Sri. Narayanappa S/o. Venkataramanaiah and Sri.Sanjeevaiah S/o. Srinivasaiah as per the RR-932. The said Narayanappa is the joint owner of suit item no.1 and 2



along with the defendant No.2, 4 and 5 only. The 3rd defendant is the sister-in-law of 1st defendant and she relinquished her right over the suit item No.1 and 2 after the death of her husband was died on 22/01/2020. These defendants submit that, the husband of the 1st defendant Narayanappa was died on 18/08/2016 leaving behind his wife and children i.e., defendants as his only legal heirs/survivors. After the death of 1st defendant husband Sri.Narayanappa, the 1st defendant is the Kartha of the family got changed the khata and pahani of the suit item no.1 and 2 in her name and the defendants No.1, 2, 4 and 5 only are in exclusive possession and enjoyment of the suit schedule item no.1 and 2 only. The plaintiff is not in possession and enjoyment of the suit schedule properties at any point of time. If the plaintiff is in possession and enjoyment of the suit schedule properties, till today, the plaintiff has not challenged or questions the revenue documents or object to mutate in the name of 1st defendant even today. So, these facts are very



much known by the plaintiff and she is not question or object to mutate the khata of suit properties. When the plaintiff is not in possession and enjoyment of the suit schedule properties, the court fee calculated and paid Under Sec.35 (2) is incorrect and the plaintiff has to be paid court fee on market value. So, the court fee paid by the plaintiff is insufficient and Calculated is also incorrect.

12. These defendants submit that, the plaintiff's parents' house is Obalapura Village, Thyamagondlu Hobli, Nelamangala Taluk, Bengaluru District and she is the poorest family background and she came to Kallahattipalya Village, Solur Hobli, Magadi Taluk for cooli work in the house of Kariyappa S/o. Kambaiah and she is residing in the same address since from more than 55 years long. The plaintiff is not having any properties and house in the said Kallahattipalya Village or anywhere. For which, the owner of the Plaintiff got recommend to Banavadi Grama Panchayathi



to grant of Government Free site at: Kallahattipalya Village and the same was considered allotted to her free site and the Government is also granting the amount of construction house in the free site issued by the Banavadi Grama Panchayathi. Now the plaintiff is constructed to A.C. Sheet roofed house under the Government aid. The site issued by the Banavadi Grama Panchayathi is free to houseless and property less plaintiff. So, the plaintiff is suppressed the material true facts and filed this false and frivolous suit with an intention to grab the valuable properties of these innocent defendants no.1,2, 4 and 5 only with the help of inimical persons those who are not good terms of these defendants in the village and One Sri. Siddaraju S/o. Krishnappa, who is the sister son of plaintiff. When, such being the true facts, the suit of the plaintiff is not maintainable in law and facts and the same is liable to be dismissed in limine.



13. It is further contended that, Sy.No.105 of Palanahalli Village measuring to an extent of 5 acres 17 guntas of property is also earlier stands in the name of husband of the 1st defendant Sri. Narayanappa as per RR No.934. The said property is sold by the husband of the 1st defendant Sri.Narayanappa as an absolute owner about 14 years back along with the defendants and others in favour of Smt.K.K.Chandrakala and Smt. H.J. Vanitha through a registered agreement of sale dated: 01/10/2007 entire extent. The 1st defendant husband is the absolute owner of the property was in possession of the same in Sy.No.105 measuring 1 acre 17 guntas and 0-05 guntas of karab land only. The said Original agreement of sale is in the custody of said K.K.Chandrakala and H.J.Vanitha. If the plaintiff is the family member of these defendants, the objection was not raised at the time of alienation and also not challenged the above said property in this suit also. If the plaintiff is the family member of these defendants, she knows everything,



but the plaintiff is not known about these facts and suppressed material true facts and filed this false and frivolous suit to gain illegally and unlawfully. Hence, the suit is not maintainable in law and facts and the same is liable to be dismissed in limine.

14. It is further contended by the defendants that, the boundaries and extent of the 3rd item of the suit schedule is not correct. The 1st defendant having right of 2-00 acres only, remaining 0-13 guntas is not belongs to the family of defendants. Boundaries towards Eastern side including Padmamma, Siddagangamma W/o. Mallaveeraiah also having property, towards Western side Saraswathamma and Ramalingaiah not Government Thore Halla, towards Southern side, Govindaiah including Ramalingaiah also having property. For all these grounds, the above said defendants have prayed to reject the above application.

15. Heard the arguments of both sides.



16. Upon hearing arguments and on perusal of materials placed on record, the following points that would arise for my consideration are as under:

- 1) Whether the plaintiff/applicant has made out a prima-facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiff/applicant?
- 3) Whether the plaintiff/applicant will be put to irreparable loss and injury, if the temporary injunction is not granted as prayed in the I.A.?
- 4) What order?

17. My answer to the above points are as under :

Point No.1 : In the Negative,

Point No.2 : In the Negative,

Point No.3: In the Negative,

Point No.4 : As per the Order,

for the following:

REASONS

18. **POINT NO.1 TO 3:** As these points are interconnected and interlinked with each other, these points



are taken up together for common discussion to avoid repetition of facts. I have already narrated in brief what is the case of the plaintiff is and what is the defense of the defendants is. According to plaintiff, the suit schedule properties are the ancestral and joint family properties of the plaintiff and defendants. They are in joint possession of the same without effecting partition. The defendant No.1 is not at all managing the suit schedule properties and she is acting to the tune of other defendants and she is not properly maintaining the suit schedule properties. When the plaintiff demanded the defendants to effect partition, the defendants have not agreed to effect partition. The defendants colluded together behind the back of the plaintiffs and trying to alienate the suit schedule properties without effecting partition in order to deprive the legitimate share of the plaintiffs over the suit schedule properties.



19. In order to substantiate the case of the plaintiff, at this stage she has produced the documents i.e., notarized copy of the Genealogical Tree, RTC Extracts, Hiduvali Certificate, Post Office Pass Book, Voter's ID and Adhara Card.

20. On the other hand, the defendants have contended that, the plaintiff is not the family member of the defendants' family. The plaintiff is stranger to the suit schedule properties. Hence, the plaintiff is not entitled for any share in the suit schedule properties.

21. In order to substantiate the case of the defendants, at this stage the defendants have produced the SPA, Genealogical Tree, RTC Extracts, M.R. Extracts, certified copy of the Sale Deed dated: 19.12.1974, Death Certificate, Revenue records, Krushi Pass Book, Encumbrance Certificates, Certificate U/S.65 of Evidence Act and certified copies of Assessment Extracts.



22. At this stage, without going through the merits of the case and conducting mini trial, the court is considering the aspect of prima-facie. At this stage, this court makes very clear that this court is looking towards prima-facie case and not for the prima-facie title. I have carefully perused the pleadings of both the parties and documents produced by both the parties and also other materials placed on record. It is very pertinent to note that, in the present case on hand, the defendants have denied the relationship with the plaintiff. In order to show the prima-facie case, the plaintiff has produced the RTC Extracts for the year 2020-21 in respect of item No.1 of the suit schedule property. On perusal of the same it appears that, the land bearing Sy.No.43/1 of Palanahalli Village, Solur Hobli, Magadi Taluk. at this stage, it appears that, the khata to an extent of 4 acres 29 guntas is stands in the name of defendant No.1 herein by way of inheritance. It is very relevant to note that, in item No.1 of the suit schedule property the extent is mentioned as 2 acres



14 ½ guntas. But the plaintiff at this stage she has not produced any iota of documents to show the exact location and boundaries of the item No.1 of the suit schedule property. In the absence of the same, the very contention of the plaintiff creates doubt at this state. The plaintiff has produced the RTC Extract for the year 2020-21 in respect of item No.2 of the suit schedule properties. On perusal of the same at this stage it appears that, the khata of the item No.2 of the suit schedule property stands in the name of the husband of the defendant No.1 herein namely Narayanappa S/o. Venkataramaiah and the plaintiff has produced the RTC Extracts for the year 2021-22 in respect of item No.3 of the suit schedule property. On perusal of the same, the khata of the item No.3 of the suit schedule property is jointly stands in the name of defendant No.1 and Venkatachalaiah S/o. Puttaiah. The said Venkatachalaiah is none other than the husband of defendant No.2 herein. At this stage the rights of the parties cannot be adjudicated, it needs full fledged trial.



23. Looking into the pleadings and documents produced by the plaintiff, at this stage the plaintiff has not made out a prima-facie case and also balance of convenience is not lies in favour of the plaintiff. If this application is not allowed, no hardship will be caused to the plaintiff. For considering all these reasons, I answer Point No.1 to 3 in the Negative.

24. **POINT NO.4** : In the light of the above discussion on Point No.1 to 3, I proceed the following:

ORDER

I.A.No.1 filed by the plaintiff/applicant under Order XXXIX Rule 1 and 2 r/w. Section 151 of CPC is hereby rejected.

No order as to cost.

(Dictated to the Typist directly on computer, typed by her, corrected by me and then pronounced in the open Court, on this the day of **19th day of August, 2025.**)

**(SHIVAKUMAR R.)
ADDITIONAL SENIOR CIVIL JUDGE &
J.M.F.C., MAGADI.**