



**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: 17th Day of April 2026
ORIGINAL SUIT NO.40/2026

Plaintiff :- Smt. R. Kempamma

(By **Sri. R.S.** Advocate)

--V/s--

Defendants :- Smt. Hanumakka & Anrs.,

(By **Sri. K.S.P.** Advocate)

PARTIES TO I.A.NO.1

Applicant : Smt. R. Kempamma

Vs.

Opponents : Smt. Hanumakka & Anrs.,

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 or their agents, workers, henchmen, officials or anybody acting on their behalf from alienating the suit schedule properties in any manner till disposal of this suit.

2. In the accompanying affidavit to the I.A. No.1, the plaintiff states that, she has filed the above suit against the defendants for the relief of partition and separate possession and other reliefs with respect to suit schedule properties. The suit schedule properties originally are the ancestral and joint family properties of plaintiff and defendants and earlier the revenue records with respect to item No.1 and 2 of suit properties were stand in the name of father Late. S.K.Rangappa and even after his death the revenue records continued in the name of her father Late. S.K Rangappa. The revenue records with respect to item No.4 of suit property even today continued in the name of her grand-mother – Smt. Lakshamma. During the life time of her father S. K. Rangappa was purchased the Item No.3 of the suit schedule



property out of joint family income/fund and got registered in the name of her brother R. Manjunatha i.e., defendant No.2 herein under registered sale deed dated: 15/03/2019, as such the revenue records with respect to item No.3 of the suit property stands in the name of 2nd defendant. The item No.3 of the suit property is not absolute property of the 2nd defendant and he has no manner of right what so ever to do over the same.

3. It is further submitted that, the item No.5 of the suit property is also purchased by father of the plaintiff during his life time out of joint family income got registered in the name of 1st defendant under registered sale deed and the revenue records with respect to item No.5 of the suit property continued in the name of defendant No.1. The item No.6 of the suit property is also purchased by her father during his life time out of joint family income got registered in the name of 1st defendant under registered sale deed and the revenue



records with respect to item No.6 of the suit property was stands in the name of 1st defendant and even today the revenue records continued in the name of defendant No.1. Subsequently, the 2nd defendant told that he already created the documents in respect of item No.6 of the suit property and same is not binding on her right of share.

4. It is further submitted that, during the life time of the father of the plaintiff he was put up the residential structure in over the item No.4 of the suit property and also put up residential structure in over the item no.5 of the suit schedule property. In fact the 1st defendant even today residing at item No.4 of the suit property and there is about 11 residential house building situated in over the item No.5 of the suit property consisting 3 floor RCC building and the 2nd defendant collecting the rent and misusing the same as per his whims and fancy.



5. It is further submitted that, in spite of repeated request and demand made by the plaintiff for effecting partition, the defendants gave deaf ear and on 28.08.2025 the defendant No.2 mislead her and created to right relinquishment deed stating that partition deed, under the alleged right relinquishment deed dated: 28.08.2025 the plaintiffs have not received any kind of partition by way of money or in the means of land etc., but the 2nd defendant created said right relinquishment deed dated:28/08/2025 and further who given a false legal notice and it was properly replied by her.

6. It is further submitted that, on the strength of revenue records stands in the name of defendant No.1 and 2, they are colluded together making an hectic attempt to alienate the suit schedule property and also proclaimed in the area that they would going to alienate the suit property and searching prospective purchaser, hence it is very just and



necessary restraining the defendants from alienating the suit property as prayed in the annexed application. The 1st defendant is mother and the 2nd defendant is the brother of the plaintiff and suit properties are all their ancestral and joint family properties, the plaintiff has got right and share in all over the suit schedule properties. Hence, this application.

7. In pursuance of the suit summons, the defendants have appeared through their counsel. The defendant No.2 has filed the detailed written statement and resisted the suit of the plaintiff. The defendant No.2 has filed the memo adopting the written statement averments as objection to I.A.No.1. The defendant No.1 filed the memo adopting the written statement of defendant No.2 on behalf of defendant No.1 and also adopted the written statement as objection to I.A.No.1. The defendants in their written statement they have admitted the relationship between the parties and denied the rest of the plaint averments and interalia contended that, the



plaintiffs have received a sum of Rs.20 lakhs from the defendant No.2 in-lieu of her share in the presence of witnesses in respect of the suit schedule properties by executing the registered Relinquishment Deed dated: 14.03.2025. Hence, the plaintiff has no right over the suit schedule properties. For all these grounds, the defendants have prays to reject the above application.

8. Heard the arguments of both sides.

9. 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?



10. 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

11. **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 plaintiff and defendants, they are in joint possession of the same without effecting partition. When such being the case, the defendants are trying to alienate the suit schedule



property to the third parties in order to deprive the rights of the plaintiff over the suit schedule properties.

12. 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, certified copy of the Relinquishment Deed dated: 14.03.2025, the copy of the Cheque dated: 07.08.2025, the copy of the Gift Deed dated: 12.11.2008, the copy of the Sale Deed dated: 15.03.2019 and the copy of the Death Certificate of S. K. Rangappa.

13. On the other hand, the defendants have contended that, the plaintiffs have received a sum of Rs.20 lakhs from the defendant No.2 in-lieu of her share in the presence of witnesses in respect of the suit schedule properties by executing the registered Relinquishment Deed dated: 14.03.2025. Hence, the plaintiff has no right over the suit schedule properties.



14. In order to substantiate the case of the defendants, at this stage they have not produced any iota of documents.

15. 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 the plaintiff and also other materials placed on record. In order to show the prima-facie case, the plaintiff has produced the RTC Extracts for the year 2024-25 in respect of item No.1 of the suit schedule property. On perusal of the same, it appears that, the khata of the item No.1 of the suit schedule property is stands in the name of Sri. S. K. Rangappa, who is none other than the father of the plaintiff and defendant No.2 and husband of the defendant No.1 herein. The plaintiff has produced the RTC Extract for the year 2025-26. On perusal



of the same, it appears that, the khata of the item No.3 of the suit schedule property is stands in the name of defendant No.2 herein by virtue of sale. The plaintiff has produced the online copy of the registered sale deed dated: 15.03.2019. On perusal of the same, it appears that, the item No.2 of the suit schedule property was purchased by the defendant No.2 from his vendors. It is to be noted that, after conclusion of arguments on I.A.No.1, the defendants' counsel filed the memo and submitted that, the defendants will not alienate the suit schedule properties till disposal of the suit. It is well settled Law that, the plaintiff has to prove his case independently by adducing cogent and credible evidence, he cannot strengthen his case on the weakness of the defendant. It is relevant to note that, at this stage the plaintiff has not produced any iota of documents to show that, the suit schedule properties are the joint family properties of plaintiff and defendant except item No.1 & 3 of the suit schedule



properties. In the absence of the same, at this stage it cannot be held that, the plaintiff has made out prima-facie case. It is to be noted that, at this stage the rights of the parties cannot be considered, it needs full fledged trial.

16. Looking into the pleadings of both the parties and documents produced by the plaintiff, at this stage it appears that, the plaintiff has not made out the prima-facie case for grant of injunction and once that she is the admitted circumstances, question of this Court having to advert to the other aspects of considering the balance of convenience and irreparable loss would not arise which is what has been held by the Hon'ble Apex Court in **Kashi Math Samsthan Vs. Shrimad Thirtha Swamy**, reported in **(2010) 1 SC 689**, wherein it has been held as under;

“It is well settled that, in order to obtained an order of injunction, the party who seeks for grant of injunction has to prove that, he has made out a prima-facie case to go for trial, the balance of



convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But, it is equally well settled that when a party fails to prove prima-facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima-facie case to go for trial, it is not open to the court to grant injunction in his favour. Even if, he has made out a balance of convenience being in his favour and would suffer irreparable loss and injury, if no injunction order is granted. Therefore, keeping these principles in mind, let us now see whether the appellant has been able to prove prima-facie case to get on order of injunction during the pendency of the two appeal in the High Court.”

In the light of the aforesaid discussion, I answer Point No.1 to 3 in the Negative.

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

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O.S.No.40/2026(Or.)

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 **17th day of April, 2026.**)

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