



**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 February 2026
ORIGINAL SUIT NO.218/2024

Plaintiffs :- Smt. Nagarajamma & Ors.,

(By Sri. A.K.H. Advocate)

--V/s--

Defendants :- Sri. Nataraju & Ors.,

(D1 & 2 by Sri. G.N.S. Advocate)
(D3 & 4 by Sri. H.N.S. Advocate)

PARTIES TO I.A.NO.1

Applicants : Smt. Nagarajamma & Ors.,

Vs.

Opponents : Sri. Nataraju & Ors.,

ORDER ON I.A.NO.1

The applicants/plaintiffs have filed this interlocutory application under Order XXXIX Rule 1 and 2 r/w. Sec.151 of CPC for the relief of temporary injunction restraining the



defendants, their agents, legal heirs or anybody acting on behalf of them from alienating the suit schedule property to the third party in any manner till disposal of this suit.

2. The I.A., supported with the affidavit of the plaintiff No.2. It is stated in the affidavit that, the common propositus of plaintiffs and defendant No.1 & 2 namely Yelekataiah, the said Yelekataiah married with one Bylamma, out of their wedlock she gave birth to 1) Chikkanna @ Chittaiah and 2) Ajjaiah. The 1st son of Yelekataiah namely Chikkanna @ Chittaiah had married with one Lakshamma, due to their wedlock she gave birth to 1) Eranna @ Eraiah, 2) Ganganna, 3) Eraiah and 4) Rajanna. The 1st son of Chikkanna @ Chittaiah namely Eranna @ Eraiah was died, the 1st plaintiff being the legal heir of said Chikkanna @ Chittaiah, likewise the 2nd son of Yelekataiah namely Ajjaiah had married with one Gangamma, out of their wedlock she gave birth to 1) Lakshamma, 2) Nataraju, 3) Guruswamy. The 1st daughter



Lakshamma was died, hence, they being the legal heirs of Late. Chikkanna @ Chittaiah. The defendant No.1 & 2 are the legal heirs of Late. Ajjaiah, the Late. Chikkanna @ Chittaiah and late. Ajjaiah during their life time they have purchased the suit schedule property through sale deed on behalf of joint family. The 4th defendant being the coparcener of 3rd defendant.

3. It is further stated that, in the partition effected between the Chikkanna and Ajjaiah, the suit schedule property was fallen to the share of Chikkanna, but in pursuance of the partition, the khata of the suit schedule property was not mutated in the name of Chikkanna. The khata of the suit schedule property was stands in the name of Byamma W/o. Yelekataiah. The defendant No.1 & 2 have colluded with the revenue officials and got obtained the khata of the suit schedule property in their names. But, the plaintiffs are in possession of the suit schedule property.



When such being the case, the defendant No.1 & 2 and other defendants have colluded with each other and tried to interfere with the possession of the plaintiff over the suit schedule property.

4. It is further stated that, in the year 2024 the plaintiffs have verified the revenue documents pertaining to the suit schedule property, at that time it is noticed that, the defendant No.3 and 4 names were mutated in respect of the suit schedule property. It is further stated that, the defendants were never in possession of the suit schedule property. Taking advantage of the same, the defendants are trying to interfere with the possession of the plaintiffs over the suit schedule property on 20.01.2024. In this regard, the plaintiffs went to concerned police station to give complaint against the defendants, at that time the police have advised the plaintiffs that the matter is in civil in nature, better to resolve the same before the competent court of law.



5. It is further stated that, the defendants have no manner of right, title, interest and possession of the suit schedule property, taking advantage of the khata stands in the name of defendants in respect of suit schedule property and they are trying to alienate the suit schedule property to the third party in order to deprive the rights of the plaintiffs over the suit schedule property. Hence, this application.

6. After service of suit summons, the defendants have appeared through their respective counsels by filing the written statement respectively. The defendants No.3 & 4 have filed the memo by adopting the written statement averments as objection to aforesaid I.A. The defendants No.3 & 4 in their written statement they have admitted the plaint pleadings and prayed to decree the suit of the plaintiffs as prayed for.

7. The defendant No.1 & 2 have filed the detailed written statement and resisted the suit of the plaintiffs. The



defendant No.1 & 2 have filed the memo adopting the written statement averments as objection to aforesaid I.A. The defendant No.1 & 2 in their written statement, they have totally denied the plaintiffs' case and interalia contended that, originally the suit schedule property is the self-acquired property of the father of the defendant No.1 & 2 herein namely Ajjaiah. He has purchased the same by virtue of the registered Sale Deed dated: 08.03.1969. In pursuance of the said sale deed, the father of the defendant No.1 & 2 was in possession and enjoyment of the suit schedule property by exercising all sorts of ownership. Accordingly, the khata of the suit schedule property was mutated in the name of Ajjaiah as per M.R.No.747. Either plaintiffs nor other defendants have no manner of right, title or interest over the suit schedule property. The father of the defendant No.1 & 2 was died on 04.04.1989. After demise of father of defendant No.1, the defendant No.1 & 2 are in possession of the suit schedule property, but the khata of the suit schedule



property was not transferred in the name of defendant No.1 & 2 by way of inheritance. When such being the case, the defendant No.3 has no right, title and possession over the suit schedule property, he has colluded with the revenue officials and obtained the IHC khata illegally in his name in respect of suit schedule property as per IHC.No.86/91-92. After came to know the said fact, the defendant No.1 & 2 have approached the plaintiffs and other defendants herein, they have not properly responded to the defendant No.1 & 2. Hence, the defendant No.1 & 2 have filed the suit for declaration and injunction against defendant No.3 in respect of suit schedule property, the same is numbered as O.S.No.725/2023, the same is pending for adjudication. In the said suit, the defendant No.3 has appeared through his counsel, but he has not filed the written statement. The plaintiffs have filed this suit at the instigation of the defendant No.3 only with an intention to harass these defendants by creating documents.



For all these grounds, the defendant No.1 & 2 have prayed to reject the above application.

8. Heard the arguments of both side.

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 plaintiffs/applicants have made out a prima-facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiffs/applicants?
- 3) Whether the plaintiffs/applicants 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 with each other, 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 plaintiffs, they are the absolute owners and in peaceful possession and enjoyment of the suit schedule property. The defendants have no manner of right, title or interest over the suit schedule property. They are trying to interfere with the peaceful possession and enjoyment of the suit schedule property and also trying to alienate the suit schedule property to third parties in order to deprive the rights of the plaintiffs over the suit schedule property.

12. In order to substantiate the case of the plaintiffs, at this stage they have produced the documents i.e., notarized copy of the Genealogical Tree, the certified copies of



the registered Sale Deed dated: 01.07.1956, Partition Deed dated: 20.08.1952, Sale Deed dated: 25.06.1963, Sale Deed dated: 08.03.1969, Lease Deed dated: 16.05.1969, Charge Deed dated: 19.05.1969, Sale Deed dated: 03.06.1973, Sale Deed dated: 28.04.1974, Sale Deeds dated: 19.02.1980, Encumbrance Certificate, RTC Extracts, Demand Register Extracts, Photographs and C.Ds.

13. The defendant No.3 & 4 have admitted the claim of the plaintiffs in their written statement.

14. The defendant No.1 & 2 have contended that, the suit schedule property is the self-acquired property of their father having acquired the same by virtue of the registered Sale Deed dated: 08.03.1969. But, the khata of the suit schedule property has not mutated in the name of either in the name of father of the defendant No.1 & 2 nor defendant No.1 & 2, the defendant No.3 and 4 have no manner of right, title or interest and possession of the same, they have



colluded with the revenue officials and transferred the khata of the suit schedule property in their names. It is further contended that, at the instigation of the defendant No.3 & 4, the plaintiffs have filed this suit. The plaintiffs have no manner of any right, title and interest over the suit schedule property.

15. In order to substantiate the case of the defendant No.1 & 2, at this stage the defendant No.1 & 2 have produced xerox copies of the Sale Deed dated: 07.03.1969, Genealogical Tree, R.R. No.47 of 1970 in M.R.No. 69-70(2), the hand written RTC in the year 1979-1999 in land bearing Sy.No.43/2, IHC.86/1991-92, RTC of the land bearing Sy.No.43/1 of 2012-13, RTC of land bearing Sy.No.43/2 of 2009-2011 & 12, RTC of old Sy.No.43/1, 43/2, New Sy.No.43 of 2023-24, Photographs and C.D., and Encumbrance Certificate of the year 01.04.1969 to 31.03.2004.



16. 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 plaintiffs and defendants No.1 & 2 and also other materials placed on record. As per the averments made out in the supportive affidavit of the annexed I.A., the plaintiffs stated that, the suit schedule property was purchased by the Ajjaiah S/o. Yelekataiah through the registered Sale Deed dated: 08.03.1969, out of the joint family nucleus. On the other hand, the defendant No.1 & 2 contended that, the suit schedule property is the self-acquired property of the father of the defendant No.1 & 2 namely Ajjaiah. It is to be noted that, it is the claim of the plaintiffs in the above matter that, the suit schedule property was fallen to the share of plaintiffs' father Chikkanna as per the oral partition effected between



Chikkanna and his brother namely Ajjaiah. No doubt, in Hindu Law the oral partition also recognizes, but it has to be acted upon. At this stage the plaintiffs have not produced any iota of documents to show that, the said oral partition is acted upon. In the absence of the same, its hold no water in the eye of Law. The plaintiffs at this stage, they have not produced any iota of documents to show that, they are in possession of the suit schedule property. Under these facts and circumstances, the rights of the parties cannot be adjudicated at this stage, it needs full fledged trial. Under all these facts and circumstances, the question of this Court granting an order of injunction in respect of subject matter, which is not even before the Court could not arise and consequently it would have to be held that, the plaintiffs have not made out a prima-facie case and also balance of convenience in their favour for grant of injunction and once that he is the admitted circumstances, question of this Court having to advert to the other aspects 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 obtain 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 :

ORDER

I.A.No.1 filed by the plaintiffs/applicants 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 February, 2026.**)

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