



**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: 24th Day of April 2026
ORIGINAL SUIT NO.240/2025

Plaintiff : 1. Smt. Shylaja. K.M,
Aged about 50 years,
W/o. Late Gagadharaiah A.,
D/o. Late Sri. Anjinappa,

2. Sri. Kishore. G,
Aged about 33 years,
S/o. Late Gangadharaiah,

Both Plaintiff No.1 & 2
are R/at No. 35,
1st cross,
Aallalasar, Yelahanka,
G.K.V.K., Bangalore- 560 065

3. Smt. Kavya. G,
Aged about 30 years,
W/o. Vegesha. V,
D/o. Late Gangadharaiah
R/at Flat No. 301,
MDM Paradise,
3rd cross, 3rd Main,
HRBR 3rd block,
Near Ganesh Temple,

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Bangalore North,
St. Thomas Town,
Bengaluru- 560 084

(By Sri. M.D.M. Advocate)

---V/s---

Defendants

:

1. Sri. Ramanna,
Aged about 64 years,
S/o. Late Anjinappa,
2. Smt. Kemparangamma,
Aged about 60 years,
W/o. Late Kempphanumaiah,

Both Defendant No. 1 and 2 are
R/at. Near Government Hospital
Manniganahalli, Magadi,
Ramanagar District - 562 127

(By Sri. H.N.J. Advocate)

ORDER ON I.A.NO.1

The applicants/plaintiffs have 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

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defendants, their agents, servants, or anybody acting on their behalf etc., from alienating, encumbering or create any third party rights in respect of the suit schedule property in any manner pending disposal of this suit.

2. In the accompanying affidavit to the I.A. No.1, the plaintiff No.2 states that, they file the above suit against the defendants for the relief of partition and separate possession in respect of suit schedule properties and other consequential relief. The suit schedule properties are the joint family properties are plaintiffs and defendants they are in the joint possession of the same without effecting partition. When the plaintiffs demanded the defendants to effect their 1/3rd share in the suit schedule properties, but the defendants refuse the allot the share of the plaintiffs over the suit schedule properties. When things stood thus, the defendants are trying to alienate or creating third party interest over the suit schedule properties in order to deprive the rights of the

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plaintiffs in respect of suit schedule properties. Hence, this application.

3. After service of suit summons the defendants have appeared through their counsel and filed detailed written statement and resisted the suit of the plaintiff. The defendants have filed the memo adopting the written statement averments as objection to I.A.No.1. The defendants in their written statement they have totally denied the plaintiff's case and interalia contended that, there is no cause of action to file this suit, the court fee paid by the plaintiff is insufficient, the suit of the plaintiffs is bad for non joinder of necessary parties. It is further contended that, already partition was to place between the plaintiffs and defendants, the plaintiffs and defendants are in separate possession of their respective shares. Hence, there is no joint family status between plaintiffs and defendants. Hence, the plaintiffs are not entitled for any relief sought in the I.A. For

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all these grounds, the above said defendant has prayed to reject the above application.

4. Heard the arguments of both sides. The defendants counsel also filed written arguments.

5. 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?

6. 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,

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Point No.4 : As per the Order,
for the following:

REASONS

7. **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 plaintiffs, the suit schedule properties are joint family properties are plaintiffs and defendants and they are the joint possession of the same without effecting partition by metes and bounds. The defendants refused to all the share of the plaintiffs and trying the alienate or create third party interest over the suit schedule properties without knowledge and consent of the plaintiffs.

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8. In order to substantiate the case of the plaintiff, at this stage she has produced the documents i.e., Xerox copy of the Genealogical Tree, Certified copy of order of re grand order passed in case No.HOA(M)171-4/6970, the copy of Registered sale deed dated 09.12.1991, the copy of the Legal Notice dated 19.09.2024, postal receipt, Postal acknowledgement, Mutation Extracts, RTC Extract, Copy of the Form No.11(2 Nos), Akar band.

9. On the other hand, the defendants have contended that, there is no joint family status between the plaintiffs and defendants, the plaintiffs and defendants have partition their joint family properties and they are put in separate possession of their respective shares in respect of suit schedule properties and denied the case of the plaintiffs. Hence, the plaintiff is not entitled for any relief sought in the aforesaid I.A.



10. In order to substantiate the case of the defendants are produced RTC extracts, Mutation Sketch, Statement, Mahazer, akarband, Assessment tax registered extract, Photographs.

11. At this stage, without going through the merits of the case and conducting mini trail, 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. In order to show the prima-facie case, the plaintiffs have produced the RTC Extracts for the year 2024-25, on perusal of the same, at this stage it disclose that the katha of the Item No. 1 to 6 of the suit schedule properties are jointly stands in the name of plaintiff No.1 and defendants hearing. It is to be noted that, so far as Item No.7 concerned the plaintiffs have

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not produced any documents. It is relevant note that the katha of the Item No. 1 to 6 of the suit schedule properties are jointly stands in the name of plaintiff No.1 and defendants herein. Under these facts and circumstances, for alienation of the suit schedule properties by the defendants alone does not arise. At this stage the rights of the parties cannot be adjudicated, it needs to full fledged trial.

12. Looking in to the pleadings and documents produced by the both parties, at this stage the place that the plaintiffs have not made out the Prima-facie case. The plaintiff has not made out a prima-facie case for grant of injunction and once that 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 an order of injunction during the pendency of the two appeals in the High Court.”

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

13. **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 **24th day of April, 2026.**)

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