



**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.,  
Addl. Senior Civil Judge & JMFC, Magadi.

**Dated: 17<sup>th</sup> Day of June 2025**  
**ORIGINAL SUIT NO.280/2022**

**PLAINTIFF/s** : Miss Pooja R.,  
D/o. Rajashekar V.,  
Aged about 24 years,  
R/at: No.11, Nanditha Nilaya,  
2<sup>nd</sup> Cross, RMV II Stage,  
Lottegollahali, Bangalore - 560 094.  
**(Reptd. By : Sri. M.R.S., Advocate.)**

**Vs.**

**DEFENDANT/s:** Sri. Rajashekar V.,  
S/o. Late. V. R. Appajaiah,  
Aged about 53 years,  
Lab Assistant,  
M. S. Ramaiah Hospital,  
New BEL Road,  
M. S. Ramaiah Nagara,  
MSRIT Post,  
Bangalore - 560 054.  
**(Reptd. By : Sri. S.S.R., Advocate)**

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**PARTIES TO I.A.NO.6**

**Applicants :** Miss Pooja R.,



Vs.

**Opponents:**

1. Sri. Rajashekar V.,  
S/o. Late. V. R. Appajaiah,  
Aged about 53 years,  
Lab Assistant,  
M. S. Ramaiah Hospital,  
New BEL Road,  
M. S. Ramaiah Nagara,  
MSRIT Post,  
Bangalore - 560 054.
  
2. Smt. Uma,  
W/o. Late.  
Ashwathnarayanappa,  
D/o. Late. V. R. Appajappa,  
Aged about 63 years,  
R/at: No.68, 10<sup>th</sup> Main,  
Reliance Tower R. D.,  
Srinivas Nagara,  
Sunkadakatte,  
Bengaluru – 560 091.

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**ORDER ON I.A.NO.6**

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 from cutting the standing teak trees and other trees in the suit schedule properties till disposal of this suit.

2. In the accompanying affidavit to the I.A. No.6, the plaintiff state that, the plaintiff being the daughter of the defendant No.1 and the plaintiffs and defendants are the members of Hindu undivided joint family and suit schedule properties are their ancestral properties. The plaintiff and defendant No.1 are in joint possession of the same without effecting partition. The defendant No.1 has neglected to maintain the plaintiff and her mother, the plaintiff has legitimate share in the suit schedule property, in order to defeat the rights of the plaintiff over the suit schedule properties, the defendants intending to cut the standing teak trees and other valuable trees to sell the same in favour of third parties without the consent of the plaintiffs. Further the plaintiff stated that, the defendants must be restrained from cutting the valuable standing trees in the suit schedule



properties till pending disposal of this suit, in order to safeguard the interest and rights of the plaintiff over the suit schedule properties. The balance of convince in the above matter is in the favour of plaintiff. The plaintiff has produced the photos along with this application. In order to avoid multiplicity of proceedings, it is just and necessary to issue an interim stay against the defendants and their henchmen restraining them from cutting the valuable standing trees in the schedule properties. Hence, this application.

3. The I.A., copy was served to the other side. The defendant No.1 herein have filed the detailed objections and resisted the I.A., filed by the plaintiff. The defendant No.1 in his statement of objection, he has totally denied the supportive affidavit of the I.A., averments and interalia contended that, the defendant No.1 does not own the entire suit schedule property, but only holds on ancestral share in it. The plaintiff claiming that, the defendant No.1 is acting



independently as a sole owner and further contended that, the proposed defendant No.2 and the purchaser were merely waiting for the timber to fully mature before proceeding with the sale. At this stage, the plaintiff has not made out a prima-facie case and balance of convenience does not lies in favour of the plaintiff. The proposed sale of timber, if halted by an injunction, would result in significant financial loss and disruption for the defendant and the other co-owners, creating an unjust and inequitable situation. For all these grounds, the defendants pray to reject the aforesaid application.

4. Heard arguments on both sides.

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 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?

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,

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. It is the urge of the plaintiff that, the plaintiff and defendants are the members of the Hindu undivided joint family and the suit schedule properties are their ancestral and joint family properties without effecting



partition by metes and bounds. When such being the case, the defendant are trying to cut and remove the standing teak and other trees in the suit schedule properties. In order to substantiate the contention of the plaintiff, at this stage he has produced the documents i.e., RTC Extracts, xerox copy of the Registered Will dated: 27.12.2018, Photographs and Mutation Register Extracts.

8. Per contra, the defendant No.1 contended that, he does not own the entire suit schedule properties, but he holds only an ancestral share in it. That, oral agreement to sell timber trees was made well before the filing of this suit. The proposed defendant No.2 and purchaser were merely waiting for the timber to fully mature before proceeding with the sale.

9. 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. It is very pertinent to note that, the plaintiff has filed the instant I.A., for the relief of temporary injunction to restrain the defendants from cutting teak and other trees standing in the suit schedule properties. As could seen from the order sheet and other materials placed on record. At this stage it appears that, the plaintiff has filed the I.A.No.3 U/O.I Rule 10(2) r/w. Sec.151 of C.P.C., on 29.03.2023 to implead the proposed defendant No.2 as defendant No.2 in the above matter. Still the said I.A., is pending for adjudication. It disclose that, the proposed defendant No.2 is not arrayed as a defendant No.2 in the above matter. Under these facts and circumstances, by granting the injunctive relief against who is not party to the present suit. Hence, the I.A., filed by the plaintiff in the present forma is not tenable. At this stage the rights of parties cannot be adjudicated.



10. Looking into the pleadings and documents produced by the plaintiff and defendants, 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 allowed, the defendants will be put to great hardship and injury. On the other hand, 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.

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

**ORDER**

I.A.No.6 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 **17<sup>th</sup> day of June, 2025.**)

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