



**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: 16<sup>th</sup> Day of April 2026**  
**ORIGINAL SUIT NO.460/2024**

**Plaintiff** :- Smt. Neelamma  
(By **Sri. S.V.** Advocate)

--V/s--

**Defendants** :- Smt. Venkathanumakka & Ors.,  
(By **Sri. R.K.** Advocate)

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**PARTIES TO I.A.NO.1**

**Applicant :** Smt. Neelamma,  
.Vs.

**Opponent :** Sri. Govindaiah (D2)

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**ORDER ON I.A.NO.1**

The applicant/plaintiff has filed this interlocutory application under Order XXXIX Rule 1 and 2 of CPC for the relief of temporary injunction restraining the defendant No.2 or his agents, workers, henchmen, officials or anybody acting



on his behalf from alienating the suit schedule property in any manner till disposal of this suit.

2. In the accompanying affidavit to the I.A. No.1, the plaintiff states that, the plaintiff and defendants are the members of the Hindu undivided joint family, the suit schedule property is their joint family property, they are in joint possession of the same without effecting partition by metes and bounds. The defendant No.2 is acting as a kartha, he has misused the joint family funds. Hence, the plaintiff has demanded the defendant No.2 to effect partition, but the defendants have refused to allot the share of the plaintiffs over the suit schedule property. It is further stated that, recently plaintiff learnt that, the khata of the suit schedule property is stands in the name of defendant No.2. On the strength of the alleged khata, the defendant No.2 is making attempts to alienate the suit schedule property to the third parties without and consent and knowledge of the plaintiff in



order to deprive the legitimate share of the plaintiffs over the suit schedule property. Hence, this application.

3. In pursuance of the suit summons, the defendant No.2 has appeared through his counsel and filed 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.2 in his written statement he has admitted the relationship with the parties and denied the rest of the plaint pleadings and interalia contended that, the plaintiff has no manner of right, title or interest over the suit schedule property, he is not having share over the suit schedule property. The suit is bad for non-inclusion of all the properties of joint family.

4. It is further contended that, during the life time of father of the 2<sup>nd</sup> defendant itself, he was performed the marriage of the plaintiff and defendant No.1 and 7 by raising



the loan and since from the date of marriage itself the plaintiff and defendant No.1 and 7 are retired from the joint family as alleged by the plaintiff by taking their share in the means of gold and silver articles and also in the form of money and they are residing in their respective husbands houses, accordingly the marriage of the plaintiff was performed about 48 years back, at the time of marriage of the plaintiff itself the father of the second defendant and second defendant have performed the marriage of the plaintiff by spending huge money in a luxurious manner. At the time of marriage itself, she had taken share in the means of gold and silver articles and also in the form of money. Hence, the plaintiff is not entitled for any share in the suit schedule property. For all these grounds, the defendant No.2 has prays to reject the above application.

5. Heard the arguments of both sides.



6. 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?

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

Point No.1 : In the Affirmative,

Point No.2 : In the Affirmative,

Point No.3 : In the Affirmative,

Point No.4 : As per the Order,

for the following:

### **REASONS**

8. **POINT NO.1 TO 3:** These points are inter related with each other. Hence, these points are taken up together for



common discussion in order to avoid repetition of facts and findings. It is the urge of the plaintiff that, plaintiff and defendants are the members of Hindu undivided joint family, the suit schedule property is their joint family property, they are in joint possession of the same without effecting partition. When such being the case, the khata of the suit schedule properties is stands in the name of defendant No.2. On the strength of the alleged khata, he is making attempt to alienate the suit schedule property to the third parties in order to deprive the rights of the plaintiff over the suit schedule property.

9. In order to substantiate the case of the plaintiff at this stage the plaintiff has produced the genealogical tree, RTC extracts and Mutation Register Extracts.

10. On the other hand, the defendant No.2 contended that, at the time of marriage of the plaintiff she has received the cash and golden jewelries in-lieu of her share in respect of



suit schedule property. Hence, she is not entitled for any share in the suit schedule property.

11. To substantiate the contents of the defendant No.2, at this stage he has not produced any documents.

12. 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 and documents and other materials placed on record. In the instant suit it is undisputed fact that, the relationship between the parties is not disputed. In order to show the prima-facie case, the plaintiff has produced the RTC Extract for the year 2023-24 in respect of suit schedule property. On perusal of the same, at this stage it appears that, the khata of the suit schedule property is standing in the name of the defendant No.2 as per M.R.No.7/1993-94. It



is the apprehension of the plaintiff that, the defendant No.2 is trying to alienate the suit schedule property to the third parties by depriving the rights of the plaintiff over the suit schedule property.

13. Admittedly, it is a suit for partition and separate possession against the defendants in respect of suit schedule property. At this stage the rights of the parties cannot be adjudicated, it needs full fledged trial. In order to avoid multiplicity of proceedings and also to keep suit schedule property intact till disposal of the suit. Hence, it is just and necessary to pass an order of temporary injunction restraining the defendant No.2 from alienating the suit schedule property to any body in any manner till disposal of this suit. Looking into the pleadings and documents adduced by both the parties, at this stage it appears that, the plaintiff has made out the prima-facie case and balance of convenience is also lies in favour of the plaintiff. If this I.A., is



not allowed, the plaintiff will be put to great hardship and injury. On the other hand, if this I.A., is allowed, there is no harm caused to the other side. For considering all these reasons, I answer the Point No.1 to 3 in the Affirmative.

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

**ORDER**

I.A.No.I filed by the plaintiff/applicant under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

Consequently, the defendant No.2 is hereby temporarily restrained from alienating the suit schedule property to anybody in any manner till disposal of this suit.

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 **16<sup>th</sup> day of April 2026.**)

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