



**IN THE COURT OF THE I-ADDL CIVIL JUDGE & JMFC,
HOSANAGARA
AT: HOSANAGARA**

Present: Sri. MARUTI R SHINDHE

B.A.LL.B

Prl. Civil Judge & J.M.F.C.,
Hosanagara.

Dated: This the 01st day of July 2026

O. S. No.98/2024

PLAINTIFFS: : Smt.Prithi W/o Dayananda B.,
and another

(By Sri.GB., Advocate for plaintiff)

Vs.

DEFENDANT: : Sri.Parameshwarappa
S/o Veerappgowda

(By Sri.DNH., Advocate for defendant)

I.A.No. I/2024

APPLICANTS: : Smt.Prithi W/o Dayananda B.,
plaintiffs and another

Vs.

OPPONENT : Sri.Parameshwarappa
Defendant S/o Veerappgowda



The Provision under which : Order XXXIX Rule 1 and 2 of CPC
application filed

Relief sought for : Retraining the defendant from
alienating the suit schedule A to
C property

The date on which : 06.06.2024
application is filed

Number of application : 1

The date on which : objection filed on 10.12.2024
objections are filed by
opponents by way memo

The date on which Orders : 01.07.2026
passed on the application

Order on IA No.I under Order XXXIX
Rule 1 & 2 of CPC

On 06.06.2024 I.A.No.I filed by the applicants/plaintiffs U/o. XXXIX Rule 1 and 2 of CPC for restraining the defendant from alienating the suit schedule A to C property till disposal of the suit.

2. In the accompanying affidavit the applicants/ plaintiffs submitted that the plaintiffs and the defendant are Hindu undivided joint family members. The plaintiffs are the



daughters of the defendant. The suit schedule properties are ancestral property of the plaintiffs and the defendant and they are in the joint possession and enjoyment of the suit schedule properties. There is no partition effected between the plaintiffs and the defendant in the suit schedule properties.

3. The plaintiffs further submitted that the defendant taking advantage of his name in the record of right of the suit schedule properties without the consent of the plaintiffs tried to alienate the suit schedule properties to the stranger. The defendant has no right to alienate the suit schedule properties. The plaintiffs having the shares in the suit schedule properties. Therefore, If the injunction is not granted the plaintiffs will be put to irreparable loss and inconvenience which cannot be compensated in terms of money. If the injunction is granted, there is no loss or inconvenience will be caused to the defendant. Hence present application.

4. Per contrary, on 10.12.2024 the defendant has filed memo, treating his written statement as an objection to I.A.No.I.



5. The defendant has filed written statement by refuting the averment made in the plaint. The defendant admitted the relationship of the plaintiffs.

6. The defendant further contended that the plaintiff's mother has filed an original suit no.158/2018 for the relief of partition and separate possession against the defendant before this court and the said suit was compromise. In the said case, the plaintiffs have received Rs.5,00,000/- and Rs.6,00,000/- in respect of their shares and the plaintiff's mother namely Chandrakala have received Rs.10,00,000/- as maintenance. Accordingly, this court has pass the compromise decree in the original suit no.158/2018. The plaintiffs have not challenged the said compromise decree and the plaintiffs are not approached this court with clean hands. Hence, Among all these ground prays to dismiss the application.

7. Heard the learned counsel appearing for the plaintiffs and the learned counsel appearing for the defendant on IA.No.1. In view of the materials placed before me and rival contention arise by the parties, the following points arisen for my consideration;



POINTS

1. Whether the plaintiffs have made out a prima facie case for grant of temporary injunction?
2. Whether the balance of convenience lies in favour of plaintiffs?
3. Whether the plaintiffs will be put into irreparable loss and injury in the event of refusal of temporary injunction sought?
4. What order?

8. My answers 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 final order
for the following

REASONS

9. **Point No.1 to 3:** These points are taken together for the common discussion and to avoid the repetition of the facts. The learned counsel appearing for plaintiffs argued that the plaintiffs are filed this suit for the relief of partition



and separate possession in respect of the suit schedule A to C property. The defendant's name appeared in the record of right of the suit schedule properties. The suit schedule properties are ancestral properties of the plaintiffs and the defendant. There is no partition effected between the plaintiffs and the defendant. Therefore, the plaintiffs have made out prima facie case and balance of convenience and irreparable loss would be cause to the plaintiffs. Hence, among all these ground prays to allow the application.

10. The learned counsel appearing for the defendant argued that the plaintiffs have not approach this court with clean hands. The learned counsel appearing for the defendant further argued that the present plaintiffs and their mother had filed an original suit no.158/2018 in respect of the suit schedule properties against the defendant claiming 2/3 shares in the suit schedule properties. The said suit came to be compromise before this court and in the said compromise the plaintiffs and their mother had received Rs.5,00,000/- and Rs.6,00,000/- in respect of their shares in the suit schedule properties. Therefor, the plaintiffs have not made out prima facie case to go for trial. Hence, among all theses grounds prays to dismiss an application.



11. Peruse the records of the case. It indicates that the plaintiffs have filed this suit for the relief of partition and separate possession claiming 1/3 share against their father (defendant) in respect of the A to C suit schedule property.

12. This court gone through the documents produced by the plaintiffs. Perused the record of right of the A and B suit schedule property in the year 2023-24 which reflect that the suit schedule properties standing in the defendant's name.

13. This court gone through documents placed by the defendant. Perused the xerox copy of the plaint in original suit no.158/2018. It indicates that the present plaintiffs and their mother had filed an original suit no.158/2018 before this court seeking the relief of partition and separate possession in respect of the A and B suit schedule property. Perused the compromise petition filed under section 89 R/w order XXXIII Rule 3. It indicates that the plaintiffs have given up their shares in respect of A and B suit schedule property (present A to C suit properties) by receiving Rs.5,00,000/- and Rs.6,00,000/- and Rs.10,00,000/- (plaintiffsmother).



14. Perused the order sheet original suit no.158/2018 which reflects that the suit was decreed as per the terms of compromise petition vide order dated 16.10.2019.

15. Accordingly, the documents produced by the defendant clearly indicates that the plaintiffs and their mother had filed original suit no.158/2018 for the partition and separate possession in respect of the present suit schedule properties and same was came to be compromise. The plaintiffs have suppressed the material facts before this court and the plaintiffs have not approached this court with clean hands.

16. It is well settled law that if the plaintiffs approached without clean hands and suppressed material facts they are not entitled the equitable relief of order of temporary injunction. In case on hands, the plaintiffs have suppressed material facts and they are not approached with clean hands to this court. Therefore, they are not entitled equitable relief of temporary injunction.

17. Accordingly, the documents produced by the plaintiffs. The suit schedule properties standing in the defendant's name. But, the documents produced by the defendant are judicial document which clearly indicates that the plaintiffs



have not made out prima facie case to go for trial and the plaintiffs are not fear before this court.

18. If the plaintiffs failed to made out prim facie to go for trial than discussing about other facts regarding balance convenience and irreparable loss does not arise. The suit filed by the plaintiffs prima facie shows it is vexatious suit. Therefore, this court by imposing cost of Rs.3,000/- in terms of compensation to the defendant and in the light of above discussion, this court answered points no.1 to 3 in the Negative.

19. **Point No.4:** For above said reasons of point No.1 to 3, following:

ORDER

The IA-I filed U/o XXXIX Rule 1 and 2 of CPC is hereby dismissed with cost of Rs.3,000/- .

(Dictated to the Stenographer directly on computer, typed by her, revised by me and then pronounced in the open court, on this 01st day of July 2026)

C/c I Addl.Civil Judge & JMFC,
Hosanagara.

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