



**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 10th day of June 2026

O.S. No.126/2024

Plaintiff: : Sri.H.V.Pramada
S/o Late.H.N.Venkataramaiah
(Sri.DNH., Advocate for the plaintiff)

V/S

Defendants: : Sri.H.V.Vishnumurthy
S/o Late.H.N.Venkataramaiah and another
(Sri.AML., Advocate for the defendant No.1)
(Defendant No.2 Sri.AJK Advocate)

I.A.No. I/2024

Applicant: Sri.H.V.Pramada
plaintiff S/o Late.H.N.Venkataramaiah

V/S

Opponents: Sri.H.V.Vishnumurthy
defendant No.1 S/o Late.H.N.Venkataramaiah



The provision under which application is filed	: Order XXXIX Rule 1 and 2 R/w section 151 of CPC
Relief Sough for	: Temporary injunction restraining the defendant no.1 from availing the loan over the suit schedule property
The date on which application is filed	: 03.07.2024
Number of application	: 1
The date on which objection are filed by opponents;	: Objection not filed
The date on which Orders are passed on the application	: 10.06.2026

Order on IA No.I under Order XXXIX

Rule 1 & 2 R/w section 151 of CPC

On 03.07.2024 this I.A.No.I filed by the applicant/plaintiff U/o. XXXIX Rule 1 and 2 R/w 151 of CPC for restraining the defendant No.1 his heirs, assigns or anyone else authorized by the first defendant from availing the loan over the suit schedule property till disposal of the suit.



2. In the accompanying affidavit the applicant/plaintiff submitted that the plaintiff and the defendants are own brother and sisters and their parents namely H.M.Venkaramaiah and Smt.Jayalaxmi are no more. The plaintiff and the defendants are the Hindu joint family members and the suit schedule property is ancestral property of the plaintiff and the defendants.

3. The plaintiff further submitted that the plaintiff is residing in the Goava state for the livelihood. The plaintiff's brother first defendant is residing in their own village Halanduru and his sister second defendant is residing in her husband house and the suit property is an ancestral property of the plaintiff and the defendants and there is no partition effected between the plaintiff and the defendants and they are in possession and enjoyment of the suit schedule property.

4. The plaintiff further submitted that the plaintiff has the approached the first defendant to effect the partition in respect of the suit schedule property. The first defendant has given consent to effect the partition through the registered document and the plaintiff agreed to the same.



Thereafter, on 24.03.2022 the first defendant asked the plaintiff to come sub-registrar office Hosangara. The first defendant and his supporters immediately after plaintiff came to the office got the signature of the plaintiff and registered the same without reading contents of the same. The plaintiff has put the signature beveling the first defendant.

5. The plaintiff further submitted that the plaintiff demanded several time to the first defendant for effected the partition. The first defendant post pone the same for one or other reasons. The plaintiff stickily demand the partition to the first defendant on 07.01.2024 the first defendant has given rational answer and stated that already there was partition effected through the registered partition deed . Therefore, the plaintiff verify the same and came to know that the first defendant has making fraud in order to grab the suit schedule property created the registered partition deed. There is no partition by meets and bounds. Therefore, the first defendant using his name in the record right of the suit property trying to avail the loan over the suit schedule property. If the application is not allowed the plaintiff will be put to untold hardship and legal injury and whereas if this



application is allowed no prejudice will be caused to the defendants. Hence, the present application.

6. Perused the records of the case and order sheet. It indicates that the defendants appeared through their learned counsel. But, they have not filed an objection to the IA.No.I and the written statement.

7. Heard the learned counsel appearing for the plaintiff and hearing from the defendants side on IA.No.I taken as nil. 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 plaintiff has made out a prima facie case for grant of temporary injunction?
2. Whether the balance of convenience lies in favour of plaintiff?
3. Whether the plaintiff 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 Affirmative

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 the defendants argued that the plaintiff has filed this suit for declaration that the registered partition deed dated 24.03.2022 is null and void and alternative relief for partition claiming 1/3rd share in the suit schedule property. The plaintiff and the defendants are own brother and sister. The suit schedule property is an ancestral property of the plaintiff and the defendants.

10. The learned counsel appearing for the plaintiff further argued the first defendant being a kartha of their family. The plaintiff asked the first defendant to effected the partition. The first defendant taking advantage same



registered partition deed among plaintiff and the defendants unequally which is not metes and bounds in respect of the suit schedule property. The first defendant has played the fraud to the plaintiff and effected unequally partition in respect of the suit schedule property. Therefore, the plaintiff has made out prima facie case and balance of convenience lie in the favour of the plaintiff. Among all these grounds prays to dismissed the application.

11. The plaintiff has filed this suit for the relief of declaration that the registered partition deed dated 24.03.2022 is void and cancellation the same and alternative relief for partition and separate possession claiming 1/3rd share in the A to C suit schedule property.

12. The plaintiff seeking this temporary injunction in respect of only the property bearing survey no.34/2 and 35/2 (item no.1 and 2) of the A suit schedule property. The plaintiff has produced the xerox copy of the partition deed dated 24.03.2022 which reflects that the plaintiff and the defendants are effected the registered partition in respect of their family property. Perused the record of right of the item no.1 of the suit schedule property which reflects that the



name of the plaintiff and the name of the defendants jointly appeared in the record of right of item no.1 and 2 of the suit schedule property.

13. The plaintiff has not placed other record of rights and relevant revenue documents in respect of other suit schedule property. The plaintiff is not disputed the signature appears on the registered partition deed. The plaintiff is sleeping over the time more than 2 years after the registration of the partition deed. The registered documents got presumption under law unless the contrary is proved. The plaintiff has not pleaded the particulars of the fraud which is required under law. There is delay laches to institution of the suit. Therefore, though the plaintiff has made out prima facie case to go for trial. The partition deed is the registered document. Therefore, if the injunction is granted to the plaintiff the irreparable loss would be cause to the first defendant than the plaintiff. Therefore, the balance of convenience not lies in favour of the plaintiff. The balance of convenience is not lies in the favour of the plaintiff. It is well settled law that the plaintiff must fill fulfilled other ingredients of the order of temporary injunction. Therefore, the plaintiff is not entitled and equitable relief of



order of temporary injunction by this Court. Hence, in the light light of above discussion, this Court answered points no.1 in the Affirmative and point No 2 and 3 are in the Negative.

14. **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 R/w 151 of CPC is hereby dismissed with cost.

(Dictated to the Stenographer directly on computer, typed by her, revised by me and then pronounced in the open court, on this 10th day of June 2026)

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

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OS 126/2024

For plaintiff evidence.

Call on 13.07.2026.