



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE &
JMFC AT GUBBI**

Dated this the 17th day of April 2026

:: PRESENT::

**KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge and JMFC, Gubbi**

OS No.397/2025

Plaintiff :- Sri. Khandoji Rao

-V/s-

Defendants :- Smt. Swetha K.N. & another

CAUSE TITLE ON IA No.I

Applicant :- Sri. Khandoji Rao

(By Sri. K.M.S , Advocate)

-V/s-

Respondents :- Smt. Swetha K.N. & another

(By leaned AGP)

**ORDER ON IA No.I FILED BY THE PLAINTIFF UNDER
ORDER 39 RULE 1 AND 2 of CPC :**

The plaintiff has filed I.A. No.1 U/O 39 Rule 1 and 2 of CPC, seeking temporary injunction, restraining the defendant No.1 from alienating the suit schedule property in any manner to anybody during the pendency of the suit.



02. In the accompanying affidavit, it is stated that filed this suit for partition and separate possession against the defendants. The plaintiff has filed Interim Application for grant of T.I. Order against the defendant. The suit schedule property is the joint family property. It was purchased by the plaintiff in the name of his son. Now his son is no more and his daughter-in-law (defendant No.1) is attempting to get Katha of the suit property in her name and also attempting to alienate the same. If the application is allowed no hardship would be caused to other side, other wise the plaintiff will be put to great hardship and irreparable loss and injury would be caused which cannot be compensated by any means. On these grounds he prays to allow the application.

03. This application is resisted by the defendant No.1 by filing memo to adopt his written statement as objections to IA No.1. It is the contention of the defendant No.1 that the defendant No.1 is the wife of Late Lokesh Rao N.K. The suit schedule property is the self acquired property of the husband of defendant No.1 and Lokesh Rao N.K. had acquired the suit schedule property through Sale deed. The one Nagarathna the SPA Holder of Kumar K. has sold the suit schedule site in favour of husband of Defendant No.1 by name Lokesh Rao N.K. for received sale consideration of Rs. 1,68,000/- out of Rs.1,50,000/-by way of DD No.045657



of Karnataka Bank Gubbi Branch and Remaining amount of Rs.18,000/- by way of cash and executed Registered sale deed dated:22.02.2019 Which was registered in the office of Sub-Registrar Gubbi. Since the date the husband of defendant No.1 was the peaceful possession and enjoyment of the suit schedule site without any intervention. After purchase the husband of defendant No.1 had approached the concerned authority to changed the katha into his name. After due verification the Bagur Gram Panchyath had changed the katha in the name of husband of defendant No.1 vide katha No.385/84 property number 152500201600720098. From the date of purchase the husband of defendant No.1 was in peaceful possession and enjoyment of the suit schedule site. And the defendant No.1 husband was paid kandyam for the above said purchased site. Now the said Lokesh Rao N.K. is not alive he was died leaving behind his wife i.e., defendant No.1 as his legal heirs. After the death of Lokesh Rao N.K. the defendant No.1 is peaceful possession of the suit schedule site. Except the defendant No.1 no one is having any right, title and much less possession over the purchased property. The Plaintiff is not at all having any right to claim any share in the belongs to husband of purchased property defendant No.1 now belongs to defendant No.1. On instigation of some political persons, who are



enimical towards this defendant No.1 and filed the suit with an intention to have wrongful gain and to cause much loss and inconvenience to this defendant No.1 and her minor children On that ground alone the suit of the plaintiff is not maintainable. The intention of the plaintiffs is only to give trouble to this defendant No.1 by one or other way. Hence on that ground alone the suit of the plaintiff is liable to be dismissed. On these grounds the defendant No.1 prays to reject the application.

04. Heard both side.

05. Points that would arise for final determination of this application are as follows;

Point No.1: Whether the Plaintiff has made out prima-facie case for grant of temporary Injunction as sought in IA No.1?

Point No.2: Whether the balance of convenience lies in favour of the Plaintiff?

Point No.3: Whether the Plaintiff will be put to irreparable loss and hardship, if IA No.1 is not allowed?



Point No.4 : What Order?

06. The findings on the above points are as follows;

- Point No.1: In the Negative
- Point No.2: In the Negative
- Point No.3: In the Negative
- Point No.4: As per final order, for the following;

R E A S O N S

07. **Point No.1 to 3:** These three points are interlinked each other. Hence they are taken together in order to avoid repetition of facts and circumstances. It is noticed that the defendant No. 2 and the husband of defendant No. 1 by name Lokesh Rao are the children of plaintiff. Said Lokesh Rao was demised recently. The plaintiff has file this suit against his daughter in law and daughter with respect to one property i.e vacant site situated at Bagooru Village, Nittur Hobli, Gubbi Taluk.

08. It is the contention of the plaintiff that the suit schedule property is the joint family property of the plaintiff and defendants. The plaintiff has purchased the suit schedule property in the name of his son Lokesh Rao by paying consideration amount out of his own income. The plaintiff was doing tailoring from last 30



years and earned the money to purchase the suit schedule property in order to construct residential house for his joint family. Since Lokesh Rao was in Government service, the plaintiff planned to get loan on salary of Lokesh Rao. E katha of the suit schedule property stands in the name of husband of defendant No. 1 i.e Lokesh Rao. After the death of Lokesh Rao, the defendant No. 1 is attempting to get the E-katha transferred in her name colluding with Nittur Gram Panchayath PDO and further the defendant No. 1 is attempting to alienate the suit schedule property behind the back of the plaintiff and without allotting the share of the plaintiff and defendant No.2.

09. The defendant No. 1 has denied the case of the plaintiff and contended that the suit schedule property is the self-acquired property of his husband and he acquired the same through sale deed dated 22.02.2019.

10. The plaintiff has relied on copy of sale deed dated 22.02.2019. on perusal of the same there is no recital that the plaintiff has purchased the suit schedule property in the name of his son Lokesh Rao by paying consideration amount out of his own income. If the plaintiff purchased the suit schedule property out of his



own income in the name of his son; what could be prevented him to mention the said fact in the alleged sale deed. Admittedly said Lokesh Rao died intestate; but the father and sister are not the Class-1 legal heirs as per section 8 of Hindu Succession Act. The defendant No. 1 being the wife of Lokesh Rao, she is the class -1 legal heirs. However this is a suit for comprehensive relief of partition and separate possession; if plaintiff succeeds in the suit he will get the share over the suit schedule property even though the defendant is not restrained by way of temporary injunction to alienate the suit schedule property. If the temporary injunction is rejected as claimed by the plaintiff, no hardship will be caused to him and on the other hand if the temporary injunction is granted, much inconvenience will be caused to the defendantNo.1. The plaintiff has failed to make out prima facie case, balance of convenience does not lie in his favour. Accordingly the point No. 1 to 3 are answered in the **negative**.

11. **Point No.4:** For the foregoing reasons, this court proceeds to pass the following:

ORDER

IA No.1 filed by the plaintiff
U/O 39 Rule 1 and 2 of CPC is
hereby by rejected.



No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected and then pronounced
in the open Court on this the 17th day of April 2026)

Sd/-
(KIRAN S.P.)
Prl. Civil Judge & JMFC,
Gubbi.