



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE AND
J.M.F.C., KUNIGAL.**

PRESENT:

Smt.Gangavva Ayatti., B.A., LL.B.(Hon's)
Addl. Senior Civil Judge & J.M.F.C.,
Kunigal

DATED THIS THE 2nd DAY OF JULY 2026

OS.No.290/2023

Plaintiffs : Pratyusha.T,

(By Sri.M.R., Advocate)

-V/s-

Defendants : Giriyappa and others,

(D1 to 6, 8 by Sri.Y.R.H., Advocate
and D7 Exparte)

: IA No.II:

Applicant/Plaintiff: Pratyusha.T,
Since Minor,
Rep. By natural guardian,
her mother S.Kalavathi.,

V/s

Opponents/defendants: Giriyappa and others,



1.Provisions under which the application is filed	U/o XXXIX Rule 1 & 2 of CPC
2.Relief Sought for :	Temporary injunction
3.The date on which the application is filed	15.12.2023.
4. Number of the application :	I.A.No.II.
5.The date on which the objections are filed by different Opponents:	16.04.2024.
6.The date on which the orders were passed on the said application :	02.07.2026.

: ORDERS ON IA NO.II U/O 39 RULE 1 AND 2 OF CPC:

The present IA is filed by the plaintiff seeking ad-interim order of exparte temporary injunction restraining the defendants, their legal representatives, attorneys or any persons claiming through them from alienating or transferring the suit schedule properties in favour of third parties, till disposal of the suit.

2. In the annexed affidavit it is contended that, the plaintiff has filed the present against the defendants for the relief of partition and separate possession of her legitimate share and other reliefs. The defendants having learnt that the plaintiff is going to challenging the spurious documents created by them in respect of suit properties and also she is going to file suit for partition in respect of suit properties and they are trying



to create third party interest over the suit schedule properties based on the said documents. Infact several third parties are visiting the suit property with an intention to purchase the same from the defendants there is a clandestine negotiation is going on with third parties and there is a every possibility of alienation of the suit properties. The intention of the defendants is to divest the plaintiff's legitimate share in the suit properties. Therefore the plaintiff got prima facie case and balance of convenience lies in her favour. Hence prayed to allow IA No.I.

3. In pursuance of summons issued by the court the defendants No.1 to 6 and 8 have appeared through their counsel and filed written statement and memo to adopt written statement as objections to IA No.I. The defendant No.7 inspite of service of summons has not appeared hence placed exparte.

4. It is the contention of the defendants that, the suit of the plaintiff is bad for misjoinder of necessary parties and non joinder of necessary parties. The plaintiff and her mother are no way related to the family of the defendants and they have denied the relationship of the plaintiff with defendant No.7 and also with the family of the defendants therefore, the suit itself is not maintainable. The defendant No.7 was unmarried person and he was missing from more than 10 years back



and he never married to mother of the plaintiff namely Kalavathi and the plaintiff and her mother are not resident of Puttanapalya Village as such the suit is not maintainable. The suit item No.1 to 7 and 11 are the absolute properties of defendant No.1 and suit item No.8 to 10 are the absolute properties of the defendant No.2. Such being the case during life time of defendant No.2 either the plaintiff or any other person are having the right over the said properties. The mother of the plaintiff colluded with some of persons and filed present suit for the relief of partition and the same is not maintainable. The plaintiff has not approached the court with clean hands. Hence prayed to dismiss the IA No.I.

5. Heard arguments on both sides.

6. The points that arise for my consideration are:-

1. Whether the plaintiff has made out prima-facie case for grant of interim injunction order as sought in IA No.I?
2. Whether balance of convenience lies in favour of plaintiff ?
3. Whether irreparable loss and hardship will be caused to the plaintiff, if injunction is not granted ?



4. What order?

7. My finding on 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 final order
for the following;

REASONS

8. **POINT NO.1 TO 3:-** Since these three points are inter connected with each other are taken together for common discussion.

9. It is the contention of the plaintiff that, the defendant No.1 is the propositus of the joint family and he married one Mayamma and out of their wed lock the defendant No.2, 5 to 8 were born. The defendant No.4 is the wife of defendant No.3 and she is necessary party to the suit. The defendant No.7 married one Kalavathi through them the plaintiff is born. The plaintiff and defendants are Hindus by religion and they constitute as Hindu Joint Family. The suit schedule properties are ancestral properties in which the plaintiffs and defendants are having right. There is no partition in the joint family.



10. The main contention of the defendants is that, defendant No.7 was missing from the home from more than 10 years back and he never married the mother of the plaintiff namely Kalavathi. Further they contended that the suit item No.1 to 7 and 11 are the absolute properties of defendant No.1 and suit item No.8 to 10 are the absolute properties of defendant No.2 as such during the life time of defendant No.1 and 2 either the plaintiff or any other persons have right over the said properties.

11. Perusal of the documents produced by the plaintiff it appears that, the plaintiff was married to defendant No.7 in this regard the plaintiff got produced the marriage invitation and the photos where as the defendants have denied the same. Further the plaintiffs got produced genealogical tree according to which one Kariyappa who is the propositus of the family i.e., defendant No.1 had wife by name Mayamma and they had five children namely Govinda, Girigowda, Lakkamma, Thirumalaiah and Bhagya. The revenue records of suit schedule properties are standing in the name of defendant No.1 by name Mariyappa and defendant No.2 by name Prema.

12. On the other hand the counsel for defendants got produced the copy of the sale deed dated 25.05.1994 and 15.03.2005 according to which the properties were purchased



by Mayamma from one M.Shambaiah and the father of the Mariyamma namely Lingaiah. By producing the said documents the defendants contended that the suit schedule properties are the self acquired properties of defendant No.1 and 2 and the plaintiff and other defendants have no right over the said property during their life time. The defendants have disputed the very relationship of the plaintiff with that of defendants No.7 and also with that of the family of the defendants. In support of the contention the plaintiff, he got produced the marriage card according to which the defendant No.7 married the plaintiff and out of their wed lock the plaintiff by name Pratyuksha is born. Whether the mother of the plaintiff Kalavathi is the wife of defendant No.7 or not is the matter of a trial and in support of contention as to the defendant No.7 was missing from more than 10 years and he is unmarried no material documents are produced by the defendants and also the defendant No.7 remained exparte as such the question of considering the contention of defendants does not arise. Further it is the defendant No.7 who has to say with regard to whether the plaintiff is his son and Kalavathi is the wife but he inspite of service of summons remaining absent before the court as such mere denial of the contention taken by the defendants as to plaintiff is not the wife and son of defendant No.7 can not be considered at this stage. In the event of alienation of the suit properties by the defendants the plaintiff will be put to hardship. Hence at this



stage the plaintiff has made out prima facie case for grant of injunction. The balance of convenience lies in his favour as such grounds made out to allow the IA NO.1. Hence point No.1 to 3 are answered in the Affirmative.

13. **POINT NO.4:-** In view of my findings on Point No.1 to 3, I proceed to pass the following:-

ORDER

I.A.No.II filed by the plaintiff U/o
39 Rule 1 and 2 of CPC is hereby
allowed.

No order as to costs.

The defendants are hereby
restrained from alienating or
encumbering the suit property till
disposal of the suit.

(Dictated to the stenographer transcribed by her corrected and then pronounced by me in the open court on this the **02nd day of July 2026**).

sd/-

(Smt.Gangavva Ayatti)

Addl. Senior Civil Judge and JMFC,
Kunigal.