



**IN THE COURT OF THE ADDL.SENIOR CIVIL
JUDGE, KUNIGAL**

Present

Smt. Gangavva Ayatti

B.A.LL.B. (Hon's)

Addl. Senior Civil
Judge and JMFC,
Kunigal.

DATED THIS THE 0F 20TH DAY OF JUNE 2026

OS.No.254/2022

Plaintiff : Sri.Lokesh.M.C,

(By Sri. Y.D.S., Advocate)

-V/s-

Defendants : Smt.Ramadevi.M.C and others.

(D1, 3, 4 by Sri. V.N., Adv,)

::IA.No.VI::

Applicants : Kum. Pooja. B,

-V/s-

Opponents : Sri.Lokesh.M.C,

1.Provisions under which the application is filed:	U/sec. 151 of CPC.
2. Relief Sought for:	Handing over possession



3.The date on which the application is filed:	22.02.2025.
4.Number of the application:	I.A.No.VI.
5.The date on which the objections are filed by different Opponents:	19.06.2025.
6.The date on which the orders were passed on the said application:	19.06.2026.

::ORDERS ON IA No.VI::

The present IA U/sec. 151 of CPC is filed by the defendant No.1, 3 and 4 directing the plaintiff to hand over the possession of the outhouse of the written statement schedule house property to meet their immediate legal necessity when the case is posted for hearing on IA.

2. In the annexed affidavit it is contended that, the plaintiff has filed present suit for the relief of partition and such other reliefs in respect of suit schedule properties. The suit schedule properties and written statement schedule property are the ancestral and joint family properties of the plaintiffs and defendants. There was no partition by metes and bounds even then the plaintiff attempted to obtain katha in respect of written statement schedule property exclusively in his name. The written statement house schedule property is rented by the plaintiff though the defendants protested renting without the consent. The



plaintiff is not sharing income generated with other family members eventhough the same is demanded by the defendants. The plaintiff has no exclusive right to get the income of the written statement schedule property and he is mismanaging the family property. The defendant No.3 and 4 are in rented house and they are depending on the income generated in the written statement schedule property and they very much required atleast one portion of the building to reside therein but the plaintiff not allowing them to reside in the said house. The defendant No.3 and 4 being the female member of the family and unmarried daughters of defendant No.1 they have no parents and no house of their own. Hence prayed to allow the IA No.VI.

3. The plaintiff has filed objections by denying the averments made in the affidavit and further contended that, the property mentioned in the written statement schedule property is self acquired property of father of the plaintiff by name Channa @ Channappa. During his life time the father of the plaintiff executed registered will in favour of Boramma i.e., defendant No.2 on 11.11.1999. After the death of Boramma the father of the plaintiff revoked said will and on the same day he executed another will in favour of plaintiff on the condition of the plaintiff has to take care of defendant No.2 till his death. Again he



executed one more will on 18.01.2021 in respect to written statement schedule properties in favour of plaintiff and defendants. The father of the plaintiff executed another one will dated 29.07.2022 in respect of written statement schedule property. In the said will there is a clear mention as to during the life time of defendant No.2, plaintiff has to take care of defendant No.2 and he has to pay Rs.10,00,000/- each to the defendant No.3 and 4. After the death of father of the plaintiff taken care of defendant No.2 by spending Rs.30,000/- per month from the income generated from written statement schedule property. The said house is in dilapidated condition and plaintiff has spent Rs.5,00,000/- for renovation. The defendant No.1, 3 and 4 without having any right the ownership and possession with the written statement schedule property are intentionally claiming the said property in the counter claim. The mother of the defendant No.3 and 4 was working as assistant manager, accounts section at BMTC. She died due to cancer on 17.02.2022 when the mother of the defendant No.3 and 4 was taking treatment for cancer as brother taking care of her by providing good treatment to her. After her demise the plaintiff being father in law of defendant No.3 and 4 performed the funeral and he coordinated with the employer of Lakshmamma and got settled all benefits given by her department. The defendant No.3 and 4 got approximately Rs.99,00,000/- as death



benefits out of which the plaintiff kept Rs.49,50,000/- as a FD in several banks in the name of defendant No.3 and 4. He also made efforts to get compensate appointment for defendant No.3 and she will get the job at BMTC. Since 10 years the defendant No.3 and 4 are residing at house situated in 8th Main, 4th B-cross, RPC Layout Bengaluru with her mother but intentionally they have filed suppressing the said facts. After the death of mother of the defendant No.3 and 4 they started residing with plaintiff for more than one month and the plaintiff himself search for rented house and now they are residing in rented house. They have also have site in weavers colony, Bannerughatta Road, Bengaluru and the said site is worth of Rs.40 to 50 Lakhs. They have also constructed the house at Hosakere Village by spending Rs.30,00,000/-. They have also having agricultural land with coconut trees and defendant No.4 working at Accenture Company as software engineer and drawing salary of Rs.70,000/- per month. The property mentioned in the written statement schedule is self acquired property of the father of the plaintiff Channa. Hence no grounds made out to allow the IA No.VI accordingly prayed to dismiss the IA.

4. Heard arguments on both sides.

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



1. Whether the defendant No.1, 3 and 4 have made out grounds to allow IA No.VI ?
2. What order?

6. My answer to the above points are:-

Point No.1: In the Negative,

Point No.2: As per final order for the following;

REASONS

7. **POINT NO.1:-** The plaintiff has filed the present suit for the relief of partition and separate possession. It is the contention of the defendant No.1, 3 and 4 that, the defendant No.3 and 4 being the female daughters and they have no other house to reside and the plaintiff is not allowing them to reside in the house situated at written statement schedule property. The defendant No.3 and 4 have no parents and have no source of income and they are badly in need of house. The plaintiff may be directed to hand over the possession of out house of written statement schedule property to meet their immediate legal necessity.

8. On the contrary the plaintiff contended that, the written statement schedule property is the self acquired property of father of the plaintiff namely Channa @ Channappa and during his life time he executed three wills and in the last



will dated 29.07.2022 he clearly mentioned that during the life time of defendant No.2 plaintiff do not create right over the written statement schedule property and after the death of defendant No.2 father of the plaintiff has to pay Rs.10,00,000/- to the defendant No.1 and Rs.10,00,000/- each to defendant No.3 and 4. The plaintiff is taking care of defendant No.2 by spending Rs.30,000/- per month and the mother of the defendant No.3 and 4 was working as Assistant Manager in Accounts Section of BMTC and she died due to cancer on 17.02.2022. After her death the plaintiff made all sort of arrangements, also kept FD amount in the name of defendant No.3 and 4 and also he is trying for compassionate appointment. The mother of the defendant No.3 and 4 also purchased house and they are residing there in and also doing job.

9. On perusal of the materials available on record it appears that, further from the records produced by the plaintiff it appears that, the defendants No.3 and 4 are residing in the house purchased by her mother and they are earning income in this regard the plaintiff also produced documents. Therefore there is no necessity for them to reside in the written statement schedule property. Further the contention of the plaintiff is that the said property is the self acquired property of his father and he executed will in favour of the plaintiff and the defendants



obtained that the said property is ancestral property therefore the question as to whether the property is ancestral or self acquired property of father of the plaintiff requires trial as such the question of handing over possession does not arise. Hence the defendant No.1, 3 and 4 have not made out grounds to allow the IA No.VI. Therefore **I answer point No.1 is in the Negative.**

10. **POINT NO.2 :-** In view of my findings on Point No.1, I proceed to pass the following:-

ORDER

I.A.No.VI U/Sec. 151 of CPC
filed by the defendant No.1, 3 and 4
is hereby rejected.

(Dictated to the stenographer transcribed corrected and then pronounced by me in the open court on this **the 20th day of June 2026**)

sd/-

Addl. Senior Civil Judge
and JMFC, Kunigal.