



IN THE COURT OF PRL.CIVIL JUDGE & JMFC, KUNIGAL

PRESENT: SMT. SUJATHA A.B.

B.A.L, LL.B.

**PRI. Civil Judge & JMFC,
KUNIGAL**

DATED: THIS THE 1st DAY OF JUNE, 2026

ORIGINAL SUIT NO.73/2025

BETWEEN:

Plaintiffs- Smt. G. Mamatha
(By Sri.YRH., Advocate)

AND:

Defendants- Sri. Gangachikkaiah and others
(D-1 to 3 by Sri.SG.,Advocate
D-5 by Sri. KHG., Advocate
D-4 is exparte)

I.	Provision under which the application is filed	Under Order 39 Rule 1 & 2 of CPC
II.	Relief sought for	To grant an exparte ad-interim order of temporary injunction order against



		defendants
III.	The date on which the application is filed	21.01.2025
IV.	Number of the application	I
V.	The date on which the objections are filed by	24.03.2025 17.02.2026
VI.	The date on which the order were passed on the said application	01.06.2026

RANKS OF THE PARTIES ON IA No.I

Applicant/Plaintiff-

Smt. G. Mamatha

Vs.

Opponent/Defendants-

Sri. Gangachikkaiah and others

ORDERS ON I.A.No.I

IA.No.I is filed by the applicant/plaintiff under Section 39 Rule 1 & 2 of CPC to pass an ad-interim order of temporary injunction against defendant No.5 from alienating or creating



any encumbrance over the suit schedule properties in any manner till disposal of the suit.

2. In annexed with the application, the plaintiff contended that her father by name C. Gangachikkaiah who is the defendant No.1 had wife namely Parvathamma who is defendant No.2, they constituted a Hindu undivided joint family consisting of themselves and 3 children who are defendant No.3, plaintiff and defendant No.4. The plaintiff stated that suit schedule properties are the ancestral and joint family properties of the plaintiff and defendant No.1 to 4 and defendant No.1 acquired the same from his father, there is no partition or legal division in between plaintiff and defendant No.1 to 4 in respect of suit schedule properties by metes and bounds till today and there is joint nucleus in between her and



defendant No.1 to 4 in respect of said properties. The plaintiff being the co-sharer and coparcener in respect of suit schedule properties and she having her legitimate share over the same along with defendant No.1,3 and 4.

3. Plaintiff stated that defendant No.1 and 2 are taking undue advantage of the revenue documents stands in the name of defendant No.1 and defendant No.1 to 3 are colluded with defendant No.5 and created alleged registered sale deed dated 19.11.2021 with regard to suit schedule properties. The said sale deed created by the defendant No.1 to 3 and 5 behind her back and it was created by them only to defeat her legitimate share. The said document is sham document and same is not binding on the plaintiff to the extent of her right,



title, interest and possession over the suit schedule properties.

4. Plaintiff stated that she came to know about the said fraud played by the defendant No.1 to 3 and 5 then plaintiff has conveyed the panchayath on 10.01.2025 and thereby put forth her demand for partition of legitimate share in the suit schedule properties but same was refused by the defendant No.1 to 3 and 5. Hence plaintiff find no other alternative except to approach the court. Further the cause of action for the suit arose on 05.01.2025, when the plaintiff know about frivolous document styled as sale deed created by the defendant No.1 to 3 and 5 and subsequently on 10.01.2025 the date on which she conveyed panchayath and putforth her demand for partition and same was refused by the defendant



No.1 to 3 and 5. Hence plaintiff constrained to file the suit and prayed to allow the application.

5. In pursuance of the suit summons, defendant No.5 has appeared through his counsel and filed objection to the above application. On the other hand, defendant No.1 to 3 have appeared through their counsel and they have filed written statement. On the other hand, the defendant No.4 in spite of service of summons she failed to appear before the court. In the written statement defendant No.1 to 3 have admitted the claim of the plaintiff and denied the execution of sale deed in favour of defendant No.5 and claimed that sale deed dated 19.11.2021 was executed for the purpose of security of loan transaction but same was created by the defendant No.5, and they recently came to know about the



same. The defendant No.1 to 3 have admitted that suit schedule properties are the ancestral and joint family properties and admitted the share of the plaintiff.

6. Defendant No.1 to 3 contended that one Harinath is a friend of defendant No.1 is living at Tumakur and he is his close friend for many years. In this context in the year 2021 the said Harinath and also his wife Anitha met the defendant No.1 and asked loan for Harinath's medical expenses. At that time defendant No.1 informed that he hadn't possessed said loan amount and as a result said Harinath and his wife Anitha requested the defendant No.1 that they have taken loan from the defendant No.5 and hence requested to execute documents with respect to defendant No.1 to 3 suit properties as a security for said loan. Hence defendant No.1 to 3 have



executed the said documents in favour of defendant No.5 for security of loan amount. So there is no any sale transaction occurred and defendants came to know about the creating of document by defendant No.5 very recently and they had no intention to sell the suit schedule properties at any point of time and also said properties were granted properties and there is no provision to sell the same under PTCL Act.

7. On the other hand, defendant No.5 has filed objections by denying the contentions of the plaintiff and claimed that he is not aware regarding the relationship between the plaintiff and defendant No.1 to 4. Since at the time of execution of registered sale deed the defendant No.1 had produced genealogical tree sworn before the notary dated 04.09.2020, it is crystal clear that defendant No.1 got a



wife who is defendant No.2 and son who is defendant No.3 and based on the said genealogical treed he had purchased the suit schedule properties from the defendant No.1 to 3 under registered sale deed dated 19.11.2021. The defendant No.5 stated that recitals of registered sale deed clearly reveals that originally the suit schedule properties are Government land, the same were granted in favour of father of the defendant No.1 by name Chikkaiah and he was in possession of the same till is death, the said Chikkaiah apart from the suit schedule properties was owning other ancestral and joint family properties in his name.

8. Further the defendant No.5 contended that after the demise of the said Chikkaiah, his 2 sons namely Gangachikaiah and kariyappa got divided their ancestral and



joint family properties under family partition deed dated 01.04.1993 before the village panchayathdar and in the said partition the suit schedule properties and other properties had allotted to the share of the defendant No.1 as his legitimate share and accordingly he put into possession of the same. Further by virtue of the said partition katha of the suit schedule properties and another property mutated in the name of defendant No.1 by the revenue authority vide orders passed in MR No.37/1995-96 dated 30.03.1996 and since the defendant No.1 was in physical possession and enjoyment of the same by transferring revenue documents in to his name. The defendant No.5 stated that inturn requirement of money i.e., to discharge of hand loans and also to maintain the joint family the defendant No.1 to 3 come forward to alienate the



suit schedule properties for their family necessity and legal benefit, prayer to that the defendant No.1 had obtained permission from the Government of Karnataka represented by its Tahasildar Kunigal Taluk, in No. LND-UR-108/1999-2000 dated 26.12.1999 and there by the said authority permitted the defendant No.1 to sell the suit schedule properties to anybody for his requirements.

9. Defendant No.5 contended that thereafter the defendant No.1 to 3 to sold the suit schedule properties in favour of of defendant No.5 on 19.11.2021 based on the said sale deed katha of the suit schedule properties were transferred in the name of defendant No.5 as per MR No.H.7/2021-22 dated 21.12.2021 by following the procedure as contemplated under KLR Act and Revenue entries also



made out in his name and he is in physical possession and enjoyment of the same. The defendant No.5 stated that as per the genealogical tree issued by concerned notary all the family members jointly executed the registered sale deed in favour of defendant No.5. However the defendant No.1 not at all disclosed about the daughters who are plaintiff and defendant No.4 and there is no fault on his behalf and sale deed is legally valid one.

10. Defendant No.5 contended that sale transaction between him and defendant No.1 to 3 held on 19.11.2021 which is well known to the plaintiff, since 2021 plaintiff continuously visiting her parents house as such she is having knowledge about the said registered sale deed, thereby through her family members she may having every



knowledge about the said sale transaction. On the other hand, the defendant No.5 since the date of purchase he is in lawful possession and enjoyment of the suit schedule properties, during that period the plaintiff not at all appeared near the suit schedule properties. The defendant No.5 stated that plaintiff filed false and frivolous suit after lapse of more than 3 years, if the plaintiff is a joint family member and enjoying the schedule properties she shall file the suit within the stipulated period before the court and suit is barred by limitation. The defendant No.5 stated that suit is suffers from non inclusion of other joint family properties in the schedule. Since the defendant No.1 apart from the suit schedule properties also owning other landed property and house property and other joint family properties and defendant No.1



to 4 themselves colluding with each other filed this suit just to wrongful gain from him. Among these grounds he prayed to reject the application.

11. Heard arguments from both sides. Perused the materials available on record.

12. The points that would arise for my consideration are:-

(1) Whether the plaintiff has made out a prima facie case to grant temporary injunction as sought?

(2) Is the balance of convenience lies in favour of plaintiff?

(3) Whether the plaintiff will be put to irreparable loss and injury in the event of refusal of temporary injunction sought?

(4) What order?



13. My findings on the above Points are as follows:

*Point No.1 : In the **Affirmative***

*Point No.2 : In the **Affirmative***

*Point No.3 : In the **Affirmative***

Point No.4 : As per final orders

For the following:

REASONS

14. **Point No.1:-** Admittedly the plaintiff has filed this suit for the relief of partition and separate possession. According to plaintiff suit schedule properties are her ancestral properties. In order to support her contentions the plaintiff has produced Genealogical tree which is not disputed by the defendant No.1 to 3. Further plaintiff has produced RTC in respect of Sy.No.117/1 and Sy.No.117/2 in which defendant No.5 name is appearing and his name came to be mutated as per MR No. H7/2021-22 as per sale dated 21.12.2021.



15. Further the plaintiff has produced digital certified copy of sale deed dated 19.11.2021 by claiming that defendant No.1 to 3 and 5 have created said sale deed without allotting her share. At this stage it is noticed that the defendant No.5 or other defendants not placed any documents to show that the suit schedule properties are absolute properties of the defendant No.1 to 3. Further on perusal of recitals of said sale deed the defendant No.1 to 3 have described said properties as ancestral properties. No doubt the Genealogical tree annexed with the sale deed does not disclose the plaintiff and defendant No.4 name as daughters to the defendant No.1 and 2 and whether said aspect was suppressed intentionally by the defendant No.1 to 3 is to be established by the defendant No.5 during the trial.



16. No doubt the defendant No.5 contended that the suit of the plaintiff suffers from non inclusion of other joint family properties and to that effect the defendant No.5 has produced receipts issued by Tumakur city corporation in respect of property No.1182/380. But at this stage if the defendant No.5 is permitted to deal with the property by creating 3rd party interest then certainly plaintiff right will get prejudiced and then it will leads to multiplicity of proceedings and causes hardship to the plaintiff. Hence plaintiff has made out prima-facie of the case lies in her favour. Hence I answer point No.1 in the **Affirmative**.

17. **Point No.2 and 3:-** Since these points are involves common facts so in order to avoid the repetition of facts, I combined these two points together for my discussion.



According to plaintiff the defendant No.5 is trying to alienate the suit schedule properties and when the plaintiff has demanded her share over the suit schedule properties, but same was refused by the defendants. As observed by this court, the suit schedule properties are standing in the name of defendant No.5 and whether the defendant No.1 to 3 have exclusive right to execute sale deed in favour of defendant No.5 is to be considered at the time of full fledged trial and till that time, the suit schedule properties has to be kept in-tact to adjudicate the matter. If the defendant no.5 is proceeded to create any encumbrance or any alienation is made, certainly rights of the plaintiff would get prejudiced and same will leads to multiplicity of proceedings. So as a result, till conclusion of trial in this case and parties rights are adjudicated, so it is



necessary to restrain the defendant No.5 from alienating suit schedule property. **Hence I answer Points No.2 and 3 are in the Affirmative.**

18. Point No.4:- In view of the reasons assigned above, I proceed to pass the following;

ORDER

The I.A.No.I filed by the plaintiff under order 39 Rule 1 & 2 of C.P.C. is hereby allowed.

By way of granting temporary injunction in favour of the plaintiff, defendant No.5 is hereby restrained from alienating or creating any encumbrance over the suit schedule properties till disposal of the suit.

No orders as to costs.

*(Dictated to the Stenographer on computer, typed by her, corrected by me and then pronounced in the open Court on this the **1st day of June, 2026**)*

Sd/-
(SUJATHA A.B.)
Prl. Civil Judge & JMFC,
Kunigal.