



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

-.PRESENT:-

Sri. Manjunath Shivapooji B.A. LL.B.,

Addl. Civil Judge & JMFC., Kunigal.

Dated this the 1st day of August, 2025

O.S. NO.146/2022

Plaintiff : Shashikala

V/s

Defendants : Ramakrishna and others

I.A. No. I

Applicant : Shashikala

V/s.

Opponent : Ramakrishna and others

ORDERS ON APPLICATION FILED BY THE PLAINTIFF
UNDER ORDER XXXIX RULE 1 AND 2 OF C.P.C

The plaintiff has filed IA No.1, U/O 39 R 1 and 2 of CPC to restraining the defendants from alienating the suit properties till disposal of the suit.



2. The plaintiff in the affidavit annexed to IA contended that, suit schedule properties are the ancestral and joint family properties of plaintiff and defendants. Previously the suit schedule properties are stands in the name of father of plaintiff and defendant No.1 to 4. After the death of father of plaintiff, the defendant No.1 to 4 and 8 have got change the katha in their names.

3. Now, the katha of suit properties are stands in the name of defendants. The plaintiff has filed this suit for the relief of partition. Hence, it is very much necessary to keep the property intact. Now, the defendants are with an intention to alienate the suit properties. Hence, she prayed to allow the IA No.1 by restraining the defendants from alienating the suit property till disposal of the suit.

4. On the other hand, the defendant No.4 and 9 have filed objections and contended that, during ht life time of their father has orally partitioned the suit schedule properties.



After the death of their father, the sons of Lakshmipathaiah have got partitioned the suit schedule properties under the partition deed dated;30.05.2019. The daughters of Lakshmipathaiah have relinquished their share by taking gold ornaments at the time of their marriage. The plaintiff has no share over the suit schedule properties. Hence, prayed to dismiss the IA.

5. Heard arguments.

6. On basis of the application, plaint, written statement, objections and documents on record, the following points that arise for the determination of this court.

- 1.** Whether the plaintiff has made out prima- facie case in her favour?
- 2.** Whether the balance of convenience lies in favour of the plaintiff?
- 3.** Whether the plaintiff will be put to great hardship and irreparable loss if,



order of temporary injunction is not granted?

4. What order?

7. Heard arguments. Perused the application, affidavit, objections and records placed before this court.

8. My finding on 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 the final order for the following;

::REASONS::

9. **Point No.1 to 3**: Since these points are inter connected with each other, they are taken together for the discussion in order to avoid the repetition of the facts and circumstances.



10. The plaintiff has filed this suit for the relief of partition and separate possession with respect to suit schedule properties. Further, she has contended that, the suit schedule properties are the joint family properties of plaintiff and defendants. In support of her application has produced several documents. To prove her contention, the plaintiff has produced the RTC pertaining to suit properties and also produced the MR's. On perusal of those documents prima-facie it appears that, the RTC and MR of suit properties are mutated in favour of defendants.

11. As per the plaintiff, the suit schedule properties are the ancestral and joint family properties and she has share over the suit properties. Until disposal of suit, the properties shall have to be kept intact, because this court has to ascertain the nature of suit properties and the determine the shares of the parties.



12. Hence, by considering the above facts and circumstances at this stage, it is the plaintiff has succeeded to prove the prima-facie case and balance of convenience lies in her favour. The plaintiff has succeeded to get confidence of this court that, if temporary injunction is not granted irreparable loss will be caused to her. Accordingly, ***Point No.1 to 3*** are answered in the ***Affirmative***.

13. **Point No.4::** For the above discussed reasons, this court proceeds to pass the following:

::ORDER::

IA No.1 filed by the plaintiff under order XXXIX Rule 1 and 2 of C.P.C. is hereby allowed.

The defendants or their agents, servants, attornies or anybody acting on behalf of them are hereby restrained from alienating or creating encumbrance



over the suit schedule properties till
disposal of the suit.

[Dictated to the stenographer directly on computer and then corrected by me
and thereafter pronounced in the open court on this the *1st day of August,*
2025]

Sd/-
Addl Civil Judge and JMFC,
Kunigal.