



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

:-PRESENT:-

Smt. Sujatha A.B. B.A.L, LL.B.
Prl Civil Judge & JMFC., Kunigal.

DATED THIS THE 1st DAY OF AUGUST 2026

O.S. No.777/2022

BETWEEN:

Plaintiff-

Smt. Jayamma
(By Sri.BGR., Advocate)

AND:

Defendants-

Sri. Honnegowda and others
(D.1 to 4 by Sri.SRR advt.,
D.5,7 to 10 by Sri. DS advt., and
D.11 by Sri.TGT., Advocate)

I.	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 of CPC
II.	Relief sought for	To grant temporary injunction order against defendants
III.	The date on which the application is filed	08.12.2022



IV.	Number of the application	I
V.	The date on which the objections are filed by	04.01.2025
VI.	The date on which the order were passed on the said application	01.08.2026

RANKS OF THE PARTIES IN IA No.I

Applicant/Plaintiff-

Smt. Jayamma

Vs.

Opponents/Defendants-

Sri. Honnegowda and others

ORDERS ON I.A.No.I

I.A.No.I is filed by the applicant/plaintiff under Order XXXIX Rule 1 and 2 of CPC, seeking an order of Temporary Injunction to restrain the defendant No.1 to 4, 6 and 11 from alienating the suit schedule properties or creating any encumbrances over the suit schedule properties pending till disposal of the suit.

2. In support of application the plaintiff has stated that her father by name Kempaiah had two wives by name Gangamma (died) and Gangaboramma



and said Kempaiah died about 10 years back and Gangamma died about 20 years back. After the death of Gangamma, Kempaiah got married defendant No.7 and said Kempaiah had 4 children from Gangamma who is the defendant No.1, 5, plaintiff and defendant No.6. The said Kempaiah had 3 children from the said Gangaboramma (defendant No.7) who are defendant No.8 to 10 and defendant No.11 is the purchaser of the suit item No.4 from the defendant No.1 to 4. The defendant No.2 to 4 are also made as party to the suit as they have sold item No.4 to the defendant No.11. The defendant No.2 is the wife of the defendant No.1 and the defendant No.3 and 4 are their children.

3. Plaintiff stated that she and defendant No.1 to 10 are the members of the Hindu undivided joint family and they are coparcener. The suit schedule properties are the ancestral properties of the plaintiff and defendant No.1, 5, 6, 8 and 10 they are in possession and enjoyment of he same, there is no partition in the



family either written or oral between them till today. Previously katha and pahani of the suit schedule properties are stands in the name of father of the plaintiff by name Kempaiah. The plaintiff stated that there is misunderstanding between her and defendant No.1 to 10 since September 2022. So plaintiff requested the defendant No.1 to 10 on 02.06.2022 to allot her legitimate share but they refused to allot the same.

4. Plaintiff stated that after she came to know that defendant No.1 to 4 have sold the item No.4 to the defendant No.11 behind her back under registered sale deed dated 07.09.2022 and she also came to know that defendant No.1 to 4 have colluded with each other and created registered partition deed on 21.09.2022 behind her back and defendants have no right to execute the sale deed in favour of the defendant No.11 and also they have no right to enter into partition deed without consent of the plaintiff and other family members and



said sale deed and partition deed is not binding on her share and they have created the same to defraud her share.

5. Plaintiff stated that suit item No.1 belongs to her mother and defendant No.1,5,6 and after the death of her mother her children i.e., defendant No.1,5 and 6 are having 1/4th share in suit item No.1 and defendant No.7 to 10 are not have any share in the suit item No.1 and previously suit item No,3 i.e., land in Sy.No.31/3 totally measuring 12 guntas out of 4 guntas of land sold to the defendant No.11 and it is phoded as 31/37 which is suit item No.4. Hence plaintiff constrained to file the suit and prayed to allow the application.

6. In pursuance of the suit summons the defendant No.1 to 4, 5, 7 to 10 and 11 have appeared through their respective counsel. But the defendant No.11 has filed written statement and the same was adopted as objection. The rest of the defendants have not filed any objection to the above application. In the



written statement defendant No.11 has denied the plaint averments except purchasing of suit item No.4 by him from defendant No.1 to 4. According to defendants there is no joint nucleus between plaintiff and defendant No.1 to 10 and plaintiff is not in joint possession of the suit schedule property and she is not entitled for any share in the same and he contended that the property bearing No.31/3 measuring 12 guntas was belongs to Kempaiah. After his death his children partition the suit schedule properties and revenue records were also changed. To that effect, out of 12 guntas in Sy.No.31/13 4 guntas was fallen to the share of defendant No.1 and remaining 8 guntas was fallen to the share of defendant No.6 and katha and pahani was also mutated in their name as per MR.No.9/2001-02 as per partition.

7. Defendant contended that as per partition Sy.No.31/13 was bifurcated as Sy.No.31/37 measuring 8 guntas which is the suit item No.3 stands in the name



of defendant No.6 and Sy.No.31/37 measuring 4 guntas which suit item No.4 which was stands in the name of defendant No.1. The defendant No.1 along with defendant No.2 to 4 being the absolute owner having right and possession over the suit item No.4 property they have sold it in favour of defendant No.11 for valuable consideration. Defendant stated that defendant No.1 along with defendant No.2 to 4 executed the absolute sale deed in his favour on 07.09.2022 and katha and pahani is also mutated in his name as per MR.No.H3/2022-23. After purchasing of said property the defendant No.11 knew that above partition effected between the plaintiff and defendant No.1 to 10 family and he has also knew that defendant No.1 is in possession as he is from same village.

8. Defendant No.11 stated that he was put to possession of suit item No.4 on the same day of execution of the sale deed and he is the bonafide purchaser and after purchasing to suit item No.4 he has



invested huge money to develop the same. According to the defendant the plaintiff and defendant No.1 to 10 families were living separately but plaintiff knowing fully all the facts filed false suit to grab the property of the defendant No.11 and plaintiff and defendant No.1 to 10 was already partitioned their ancestral properties and hence joint family nucleus does not exist. Hence prayed to dismiss the application.

9. On the basis of the application, plaint, written statement 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?



10. Heard arguments. The counsel for the plaintiff relied upon decision in RSA No.245/2019 (Puttamma and others V/s. S.G. Jayanthi and another). Perused the materials available on record.

11. 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::

12. Point No.1:- Admittedly plaintiff has filed this suit for the relief of partition and separate possession. In order to support her contention the plaintiff has produced genealogical tree and in this case except purchaser who is defendant No.11 none of the defendants have filed any objection to the above application. Further plaintiff has produced RTC in respect of Sy.No.27/3 which was standing in the name of one Kempaiah @ Kariayappa W/o Gangamma who are the parents of the plaintiff and mode of acquisition shown as MR.2/1993-94. The plaintiff has also produced



of RTC of Sy.No.27/10 which is suit item No.1 and same is standing in the name of defendant No.1 who is the brother of the plaintiff and mode of acquisition shown as MR.T2/2018-19 as per division. The plaintiff contended that suit item No.1 was phoded as 27/10 and so above documents are in respect of suit item No.1.

13. Plaintiff has also produced of RTC of Sy.No. 26/7 which is suit item No.2 and same is standing in the name of defendant No.1 who is the brother of the plaintiff and mode of acquisition shown as MR.T2/2018-19 division. The plaintiff has produced RTC in respect of Sy.No.31/13 which was standing in the name Kempaiah who is the father of the plaintiff and mode of acquisition shown as per sale.

14. Plaintiff has also produced of RTC of Sy.No. 31/13 which is suit item No.3 and same is standing in the name of defendant No.6 who is the brother of the plaintiff and mode of acquisition shown as MR.T4/2021-



22 division. Again plaintiff has also produced of RTC of Sy.No.31/37 which is suit item No.4 and same is standing in the name of defendant No.11 who is the purchaser and mode of acquisition shown as MR.H3/2022-23 and it is shown as through Sale. Again plaintiff contended that out of 12 guntas the defendant No.1 to 4 executed sale deed in favour of defendant No.11 and after purchasing the same for 4 guntas the said property phoded as Sy.No.31/37.

15. Plaintiff has also produced RTC of Sy.No. 43/39 and 84 which are suit item No.5 and 6 and same are standing in the name of defendant No.6 who is the brother of the plaintiff and its mode of acquisition shown as MR.H21/2020-21 and MR.H9/2020-21 division. Further plaintiff has produced photocopy of sale deed of defendant No.11 and in the same defendant No.1 to 4 have narrated that they acquired said property as per partition between them and his brother. Further plaintiff has also produced photocopy



of partition deed dated 21.09.2022 and same goes to show that the defendant No.1 to 4 partitioned the properties among themselves which is challenged by the plaintiffs in the suit.

16. On the other hand, defendant No.11 has produced photocopy of panchayath parikath by claiming that same was entered between the father of the defendant No.1, his wife Gangaboramma with defendant No.1 and 6. The defendant No.11 has also produced MR No.9/2001-02 and in the same as per parikath dated 20.03.2002 the defendant No.1 and 6 name are came to be mutated in respect of Sy.No.26/6, 27/3, 31/13, 30/30, 31/13 and 43/9. Further the defendant No.11 has also produced RTC in respect of Sy.No.31/13 which is suit item No.3, and 4 in which defendant No.6 name is appearing to extent of 8 guntas and defendant No.1 name is appearing to the extent of 4 guntas and its mode of acquisition shown as MR 9/2001-02.



17. Further the defendant No.11 have produced photocopy of sale deed dated 07.09.2022 which was executed by defendant No.1 to 4 in favour of defendant No.11 and in the said sale deed the defendant No.1 to 4 have described that sale deed property acquired by them under partition. Though the defendant No.11 contended that there was already partition effected between family of the defendant No.1 to 10 and plaintiff but he has not placed any documents to show that the present plaintiff has allotted any share in it.

18. Further defendant No.11 has produced photocopy of Hand written RTC of Sy.No.27/3 and in the same Gangamma W/o Kempaiah name is appearing, who is mother of the plaintiff to the extent of 1 acre 7 guntas which is present suit item No.1 property. It is noted that if as per the version of the defendant No.11 partition effected between the plaintiff and defendant No.1 to 10 family in the year 2001-02 itself, then why defendant No.1 and 6 names mutated in respect of suit



item No.1 to 3 and suit item no.5, 6 as per MR H21/2020-21 as per partition is not made out. So, on perusal of entire documents at this stage the plaintiff has made out prima facie case in her favour to grant relief as sought under this application. Accordingly, Point No.1 answered in the ***Affirmative***.

19. Point No. 2 and 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.

On perusal of the documents produced by the plaintiff i.e. ROR of suit schedule item No.1 to 3 and 5 and 6 properties which are standing in the name of defendant No.1 and 6 and suit item No. 4 is standing in the name of defendant No.11, at this stage it cannot be said that the plaintiff has no right over the suit schedule properties. To ascertain the rights of the parties, it is necessary to conduct complete trial and at the same time if the present application is not allowed,



certainly the plaintiff will be put to great hardship rather than the defendants. Further the defendant No.1 and 6 have to establish that suit item No. 1 to 3 and 5 and 6 are their absolute property and defendant No.11 has to establish that he is the bonafide purchaser of the suit schedule item No.4 property during the trial and until declaration of the rights of the parties and properties is to kept intact. Hence on considering the above, at this stage the plaintiffs have made out prima-facie case and also the balance of convenience slightly tilted in her favour. Accordingly, point No. 2 & 3 are answered in the ***Affirmative.***

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

::ORDER::

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



The defendant No.1 to 4, 6 and
11 are hereby restrained from
alienating or creating any
encumbrance over the suit schedule
properties till disposal of the suit.

No order as to costs.

[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, 2026**]

**Sd/-
(Sujatha A.B.)
Prl. Civil Judge and JMFC,
Kunigal.**