



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 5th day of August, 2025

O.S. NO.488/2024

Plaintiffs : Narayana and another
V/s

Defendants : Kalasamma and others
I.A. No.2

Applicant : Narayana and another
V/s.

Opponent : Kalasamma and others

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

The plaintiffs have filed this suit for the relief of partition and separate possession against the defendants with respect to suit schedule properties.



2. The plaintiffs have filed IA No.2 under order XXXIX Rule 1 and 2 of CPC and to restrain the defendant No.7 and 8 from put up construction over the suit item No.1 property till disposal of the suit.

3. The plaintiff No.2 in the affidavit annexed to IA No.2 has pleaded that, the suit schedule properties are the joint family of plaintiffs and defendants. The plaintiffs and defendants are the joint family members. Till today, there has been no partition between them either orally or written by metes and bounds. They are in joint possession of the suit schedule properties.

4. The defendants are trying to put up construction over the suit item No.1 property in order to defraud the legitimate shares of plaintiffs over the suit schedule properties. Hence, they prayed to allow the IA No.2 by restraining the defendant No.7 and 8 from put up construction over the said property till



disposal of the suit.

5. On the other hand, the defendant No.7 and 8 have filed their written statement. In the written statement have admitted the suit of the plaintiff and also claimed share over the suit schedule properties.

6. Heard arguments.

7. On 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 plaintiffs have made out prima- facie case in their favour?
2. Whether the balance of convenience lies in favour of the plaintiffs?
3. Whether the plaintiffs will be put to great hardship and irreparable loss if, order of temporary injunction is not granted?



4. What order?

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

9. 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::

10. **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.



11. On perusal of the pleadings, it appears that, there is no dispute as to relationship between plaintiffs and defendants. The plaintiffs have filed this suit, for the relief of partition and separate possession over the suit schedule properties. The plaintiffs have produced the RTC of suit schedule properties. This court has perused the RTC's of suit schedule properties, it appears that, item No.1 property is stand in the name of defendant No.8.

12. The plaintiff has filed this suit for the relief of partition and separate possession. Hence, the suit schedule properties shall have to be kept intact until disposal of the suit. If the defendant No.7 and 8 are put up construction it will cause much hardship to plaintiffs.

13. On prima-facie it appears that, the case of the plaintiffs is fit case for go for trial. It also appears, if the defendant No.7 and 8 are not restrained from put up



construction over item No.1 property, plaintiffs will be put to more loss than defendants. Because, this court shall have to be determine the nature of the suit schedule properties.

14. Hence, by considering the documents placed on record and the pleadings of plaintiffs, this court come to the conclusion that, the plaintiffs have succeeded to prove the prima-facie case and balance of convenience are lies in their favour. The plaintiffs have also succeeded to get the confidence of this court that, if temporary injunction is not granted irreparable loss will be caused to them. Accordingly, ***Point No.1 to 3*** are answered in the ***Affirmative***.

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

::ORDER::

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



The defendant No.7 and 8 or
their agents or anybody acting on
behalf of them are hereby restrained
from put up construction over item
No.1 property 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 *5th day of August, 2025*]

Sd/-

[Shri.Manjunath Shivapooji]
Addl Civil Judge and JMFC,
Kunigal.