



**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.673/2024

BETWEEN:

Plaintiff- Sri. Shivalingaiah
(By Sri.B.R.R., Advocate)

AND:

Defendants- Smt Shivalingamma and others
(D-1,2 by Sri. C.J.,Advocate
D-3 by Sri. M.L.P., Advocate)

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	30.10.2024



IV.	Number of the application	I
V.	The date on which the objections are filed by	09.01.2025
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-

Sri. Shivalingaiah

Vs.

Opponent/Defendants-

Smt Shivalingamma and others

ORDERS ON I.A.No.I

I.A.No.I is filed by the applicant/Plaintiff under Order 39 Rule 1 & 2 of CPC, to pass an ad-interim order of temporary injunction by restraining the defendant No.1 or his agents or anybody acting on behalf him from alienating or creating any



encumbrance over the suit schedule property till disposal of the suit.

2. In annexed with the application, the plaintiff contended that his family original propositor by name Mudde Siddaiah and his wife Kamma had 4 children who are plaintiff and defendant No.1 to 3. The said Mudde Siddaiah was died on 22.01.2015 and his wife Kamma was died on 04.09.2024. The suit schedule property is ancestral property of the plaintiff and defendants and same was originally vested to said Mudde Siddaiah and after his death E-katha was changed in the name of deceased Kamma. During the lifetime of Kamma the suit schedule property has not been divided between the plaintiff and defendants and also during the lifetime of Kamma and her husband Mudde Siddaiah the plaintiff and



defendants are in joint possession and enjoyment of the suit schedule property as a joint family members. Thereafter misunderstanding arose between the family members they are residing and cooking separately.

3. Plaintiff contended that he and defendants are the Hindu undivided joint family governed by Mitakshara school of law. Defendant No.1 in order to grab the suit schedule property has played a fraud during the lifetime of Kamma and created document styled as registered Will dated 23.11.2022 in respect of suit schedule property which is allegedly executed by the deceased Kamma in favour of defendant No.1 under registered Will dated 23.11.2022 and said deceased Kamma never executed said alleged will with her free consent and



also her own decision. Because she had bedridden. During said period defendant No.1 taking undue advantage of illness created the documents styled as Will and infact the suit schedule property is not absolute property of the deceased Kalamma.

4. It is contended that deceased Kalamma had no exclusive right to execute the said Will itself. It is clearly recited that the suit schedule property is the ancestral property of her and it was changed in the name of Kalamma on the basis of pavathi varasu, after the death of her husband. So it is clear that suit schedule property is not absolute property of the defendant No.1 and said registered Will is allegedly executed by deceased Kalamma in favour of defendant No.1 is not valid documents and is not binding on the plaintiff share and same is great



suspicious document for that reason suit schedule property consisting RCC building but it was mentioned as tile roofed house.

5. Plaintiff stated that when said Will came to his knowledge recently then he filed the objection before Gramapanchayath Nidasale for not to change the khatha in the name of defendant No.1 and plaintiff has share holder of the suit schedule property and he approached the defendants for allot his legitimate share. But the defendant No.1 has given evasive reply and refused to allot his share and the stated make hectic effort and create encumbrance over the suit schedule property behind his back. The plaintiff stated that previously the defendant No.3 had filed suit against the deceased



Kalamma and present plaintiff and defendant No.1 and 2 as per OS No.405/2021 on the file Principal civil Judge Kunigal for seeking partition the suit schedule property but said suit was dismissed for non-prosecution same is not suppressed by the plaintiff and in the same no judgment has been passed. Hence plaintiff constrained to file the suit.

6. In pursuance to the suit summons, the defendant No.1 and 2 have appeared through their counsel and filed their written statement and same is adopted by them as objections to the IA No.1. On the other hand the defendant No.3 has not filed any objection to the above application. In the written statement the defendant No.1 and 2 have denied the contentions of the plaintiff and denied the cause of action. The defendants stated that defendant No.1 to



3 are children of Madde Siddaiah. However when the defendant No.3 aged about 1 year he was given in adoption to Manchamma (who is the sister of Kamma and her Husband Thimmaiah). Thus defendant No.3 is not at all family members in the family of the Madde Siddaiah. Ever since the defendant No.3 is residing with his adopted parents and he never resided with defendant family. Even in his education records and such other records in name of the father of the defendant No.3 is Thimmaiah. After the death of Manchama and Thimmaiah the plaintiff has got transferred property in his name on inheritance basis. He is enjoying the property of the said Thimmaiah and Manchamma and there are several properties stands in the name of defendant No.3 and OS No.403/2021 is liable to be dismissed.



When the defendant No.1 and 2 filed written statement disclosing the real and material facts at that time the defendant No.3 has refrained from contesting the case as such the suit filed by the defendant No.3 came to be dismissed for non-prosecution.

7. The defendants contended that apart the defendant No.3 has also constructed a school in the name of Sri.Ramvilas Paswan High school at Aralimaradodda in the land of 2 acres and defendant Np.3 and his wife are running the same and said suit is liable to dismiss on the grounds of misjoinder of the parties. The defendants stated that defendant No.3 is working as teacher at Sri. Gutham Aided High school and even in his service records the name of his parents are mentioned as Manchamma and



Thimmaiah. The defendant No.3 is the joint family member of the Manchamma and Thimmaiah. According to defendants after the death of the Madde Siddaiah, the said Kamma was looked after by the defendant No.1 and 2 and plaintiff has totally neglected to look after her and now after the death of Kamma, he come to grab the valuable property of the defendants. The defendants denied the joint possession of the plaintiff and claimed that he has not paid correct court fee and he has not share in the suit schedule property. Among these grounds they prayed to dismiss the application.

8. Heard arguments from plaintiff. In spite of sufficient opportunity given to defendants but they have not address their arguments. Perused the materials available on record.



9. 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?*

10. 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

11. Point No.1 :- Admittedly the plaintiff has filed the suit for the relief of partition. According to plaintiff suit schedule property are their ancestral



property and defendants refused to allot his share. Hence he constrained to file the suit. On the other hand defendants claimed that plaintiff has no right over the suit schedule property and inspite of that he filed false suit, hence prayed to reject the same.

12. In order to support his case the plaintiff has produced Genealogical tree and in this case there is no denial of relationship between the parties. Further the plaintiff has produced certified copy of demand register of property bearing No.414/2 and same is appearing in the name of father of the plaintiff. Further plaintiff has produced tax assessment list and same discloses that Kalamma who is the mother of the plaintiff name is appearing in respect of suit schedule property. The plaintiff has also produced E-khatha extract in respect of suit schedule property



and same is standing in the name of mother of the plaintiff by name Kamma and its mode of acquisition was shown as ancestral. Further the plaintiff has also produced another E-katha extract in respect of suit schedule property and same is appearing in the name of defendant No.1 and her name came to be mutated as per Will.

13. Further the plaintiff has also produced certified copy of Will dated 23.11.2022 which was alleged to be executed by Kamma in favour of present defendant No.1 and in the said Will the said Kamma had described said property as ancestral one and same are acquired by her after the death of her husband Madde Siddaiah. The plaintiff also produced death certificate of said Kamma.



14. On the other hand defendants have not produced any documents to show that the deceased Kamma has absolute right over the suit schedule property to bequeath the same in favour of defendant No.1. Moreover, in the alleged document itself when deceased Kamma had mentioned that said property was acquired by her after her husband death. Furthermore, E-katha extract which was standing in the name of Kamma discloses that same was acquired by her as per ancestral. Hence, till rights of the parties are adjudicated the property has to be kept intact. The present suit is filed by the plaintiff for the relief of partition, till rights of the parties are declared it is necessary to preserve the property as intact. In this case as per the apprehension of the plaintiff if any alienation or creation of charge is



made certainly it would cause inconvenience to the plaintiff. Hence the plaintiff has made out a prima-facie case to grant temporary injunction as sought. Accordingly I answer point No.1 in the **Affirmative**.

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

According to plaintiff the defendants are trying to alienate the suit schedule property and when he has demanded his share over the suit schedule property, but same was refused by the defendants. Again defendants contended that defendant No.3 was went into adoption and there are several properties standing in the name of defendant No.3 but they have not placed any documents to demonstrate the



same. As observed by this court, the suit schedule property is standing in the name of defendant No.1, the suit schedule property has to be kept in-tact to adjudicate the matter. If the defendants are 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. Accordingly i answer point 2 and 3 in the **Affirmative**.

16. 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 and 2 of C.P.C. is hereby allowed.

By way of granting temporary injunction in favour of the Plaintiff,



the defendant No.1 or his agents or anybody acting on him are hereby restrained from alienating or creating any encumbrance over the the suit schedule property till the 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.**