

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC
AT MADHUGIRI**

Dated this the 12th day of October 2023

**Present :
SRI RAGHUNATHA GOWDA K.T.**

B. Com., L.L.B.
Prl. Civil Judge & JMFC,
Madhugiri.

O.S. No.155/2021

Plaintiff : Sri. Nagalingappa,
S/o late Basavalingappa,
Aged about 53 years,
R/at Aralimaradahalli Village,
Puravara Hobli,
Madhugiri Taluk.
Now R/o Hosur Village,
Gowribidanur Taluk,
Chikkaballapura District.

(By Sri. D.V.S., Advocate)

V/s

Defendants : 1 Smt. Siddagangamma
W/o late Thimmappa,
Aged about 79 years.

2 Smt. Laxmidevamma
W/o Srinivasa
D/o Late Thimmappa
Aged about 65 years.

Both are R/o Kodlahalli village,
Holavanahalli Hobli,
Koratagere Taluk.

3 Sri. Lokesh
S/o Mylarappa,
Aged about 20 years
R/o Chikkamalur Village,
Puravara Hobli,
Madhugiri Taluk.

(By Sri. B.H.P., Advocate)

I.A. No.I

Applicant : Sri. Nagalingappa Plaintiff
V/s

Opponents : Sri. Lokesh Defendant No.3

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**ORDER ON I.A. No.I FILED BY PLAINTIFF UNDER
ORDER XXXIX RULE 1 AND 2 OF C.P.C**

The present application is filed by the plaintiff seeking order of temporary injunction restraining the defendant No.3, his agents, servants or anybody claiming under him from alienating the suit schedule properties any mode or manner till disposal of the suit.

2. In the affidavit annexed to the application, plaintiff averred that, the plaint averments kindly be read as part and parcel of this affidavit. The plaint averments discloses that his mother and defendant No.1 and 2 and Doddalingappa are enjoying the suit schedule properties jointly, the said Doddalingappa died issue-less, he is son of Puttananjamma. Further he contended that very recently after demise of

Doddalingappa the defendant No.1 giving a false genealogical tree to got the katha and pahani illegally in her name colluding with defendant No.2. further he contended that on 15-02-2021 the defendant No.1 and 2 have sold the suit schedule properties in favour of defendant No.3 in order to deprive his right in the suit schedule properties. If the defendant No.3 is not restrain from alienating the suit schedule properties he will suffers irreparable loss. Further he contended that he has got prima-facie case and balance of convenience lies in his favor. Hence he prays to allow the said application.

3. Per contra the defendants counsel filed a written statement and filed a memo stated that the contents of written statement treated as objection to said application. In the written statement he has denied the material avernments in the plaint avernments. Further they are contended that the plaintiff is nowhere connected to the family of deceased Siddalingappa and the said Siddalingappa had no daughter by name Puttananjamma and the defendant No.1 is only legal heirs of Siddalingappa and the suit schedule properties are devolved to the defendant No.1 exclusively. Further they are contended that on 15-02-2021 they have sold the suit schedule property in favour of defendant No.3. Hence the plaintiff has no manner of right to seeking partition in their family properties. Hence they prays to reject the said application.

4. Heard both counsel. Perused the I.A., affidavit, and records placed before the court.

5. The points that arise for my consideration are as under :

1. Whether plaintiff has made out prima-facie case ?
2. If injunction is granted or refused, to whom inconvenience will be caused ?
3. Whether irreparable loss and injury would be caused to plaintiff in case of not granting temporary injunction ?
4. What Order ?

6. My findings to the above points is as under :

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|------------|---|---|
| Point No.1 | : | In the Affirmative |
| Point No.2 | : | To the Plaintiff if not granted |
| Point No.3 | : | In the Affirmative |
| Point No.4 | : | As per final order
for the following ; |

REASONS

7. **Point No.1 to 3** :- For the sake of convenience and to avoid repetition of facts, these points are taken together for common discussion.

8. I have already narrated the pleadings of plaintiff and defendants in Para No.2 and 3 respectively. As noted above, the plaintiff has filed the present suit against the defendants seeking for relief of Partition and Separate Possession.

9. On coming to the documents produced by the plaintiff i.e., record of rights pertaining to suit schedule properties which is standing in the name of defendant No.1. Xerox copy of the sale deed dated 15-02-2021 it discloses that the defendant No.1 and 2 are sold the item No.1 to 4 of the suit schedule properties in favour of defendant No.3, Xerox copy of the Mutation Registers. Per contra the defendants have not produced any documents.

10. On careful perusal of the documents produced by plaintiff discloses that the suit schedule properties are standing in the name of defendant No.1. Further the plaintiff claiming that he is son of Puttananjamma. Original propositus by name Siddalingappa had got two daughters and one son by name Puttananjamma, Siddagangamma and Doddalingappa. Admittedly the Doddalingappa died without any issues. The defendants are very disputed the relationship of the plaintiff and he is noway concern to their family. Admittedly on 15-02-2021 the defendant No.1 and 2 are sold the suit schedule properties in favour of defendant No.3. Further the plaintiff claiming that he is having half share in the suit schedule properties but the defendant No.1 and 2 in order to defeat his right in the suit schedule properties they are sold the suit schedule properties in favour of defendant No.3.

11. Further whether the plaintiff is related to family of defendant No.1 and 2 it will be adjudicated at the time of full

pledged of trial at this juncture the plaintiff seeking equitable relief of restrain the defendant No.3 to alienate the suit schedule properties moreover if the defendant No.3 is not restrain it will causes multiplicity of proceedings between the parties and if the defendant No.3 is restrain to alienate the suit schedule properties no loss or hardship caused to the defendant No.3. At this stage the plaintiff establish that he has got prima-facie case and balance of convenience lies in his favour. Hence for the above said reasons I answer point No.1 and 3 in 'Affirmative' and point No.2 as "to the Plaintiff if not granted".

12. **Point No.4** : For the above said reasons, I proceed to pass the following :

ORDER

I.A. No.I filed by plaintiff against defendant No.3 under Order 39 Rule 1 and 2 of C.P.C. is hereby partly allowed.

Defendant No.3, his agents, servants, or anybody claiming under him hereby temporarily restrained for alienating suit schedule properties in favour of anybody in any mode or manner till disposal of the suit.

Parties to bear their own costs.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this **12th day of October 2023**)

Sd/-
(Raghunatha Gowda K.T.)
Prl. Civil Judge & JMFC,
Madhugiri.