



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

Dated this the 10th day of October 2022

PRESENT :

SRI RAGHUNATHA GOWDA K.T.

B. Com., L.L.B.

**Prl. Civil Judge & JMFC,
Madhugiri.**

O.S.No.201/2021

- PLAINTIFFS:** 1) Smt. Thimmakka
W/o late Kadurappa
aged about 65 years
- 2) Smt. Chikkavva
D/o late Kadurappa
aged about 40 years
- 3) Smt. Nagarathnamma
D/o late Kadurappa
aged about 38 years
- 4) Sri. Chikkanna
S/o late Kadurappa
aged about 35 years
- 5) Sri. Narasimhamurthy
S/o late Kadurappa
aged about 33 years

All are R/o K. Basavanahalli
Village, Dodderi Hobli,
Madhugiri Taluk.

(By Sri. S.R.R., Advocate)

Vs/-

- DEFENDANTS :** 1) Smt. Hanumakka
W/o late Sannachikkappa
aged about 65 years
- 2) Smt. Chikkavva
W/o Ramachandrappa
D/o late Sannachikkappa
aged about 42 years
R/o Matanahalli Village,
Kalembella Hobli, Sira Taluk.
- 3) Sri. Chikkanna
S/o late Sannachikkappa
aged about 40 years
- 4) Sri. Dasanna
S/o late Sannachikkappa
aged about 38 years
- 5) Smt. Lakshmakka
W/o Krishnappa
D/o late Sannachikkappa
aged about 35 years
R/o Badavanahalli village,
Dodderi hobli,
Madhugiri Taluk.
- 6) Smt. Thimmakka W/o Ugrappa
aged about 60 years
- 7) Smt. Manjulamma
W/o Krishnappa,
D/o Ugrappa
aged about 35 years

Defendant No.1, 3, 4, 6 and 7 are
R/o K. Basavanahalli village,
Dodderi hobli, Madhugiri Taluk.

(D-1 to 5 By Sri. D.S.R., Advocate)

(D-6 & 7 By Sri. P.C.K.R., Advocate)

I.A.No.I

Applicants : Thimmakka & others Plaintiffs

Vs/-

Opponents : Hanumakka & others Defendants

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ORDER ON I.A.No.I FILED BY PLAINTIFFS 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 defendant No-3 and 4, their agents, servants or anybody acting on their behalf from alienating the suit schedule properties, till disposal of the suit.

2. In the affidavit annexed to the application, plaintiff No.2 stated that he filed this suit against the defendants for relief of Partition and Separate Possession. The plaint averments discloses that the suit schedule properties are their ancestral and joint family properties and they are in possession and enjoyment of the same. Further he contended that defendants have no exclusive right, title over the suit properties but behind their back they are trying to alienate the suit properties and they are in order to defeat their right in the suit properties. Further they have contended that they have right over the suit schedule properties now the defendant No-3 and

4 are trying to alienate the suit schedule properties and they have refused to partition their share in the suit schedule properties. Hence they have constrained to file this application.

3. The suit summons was served to defendants and they are appear before the court but they did not file any objection to said application.

4. Heard. Perused the records placed before the court.

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

- 1) Whether plaintiffs have 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 plaintiffs in case of not granting temporary injunction ?
- 4) What Order ?

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

Point No.1 and 3 : In the Affirmative

Point No.2 : To the Plaintiffs if not granted

Point No.4 : As per final order
for the following :

R E A S O N S

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 contentions of the plaintiffs in para No.2. In support of their case, plaintiffs have produced Genealogical tree, Record of Rights, and Mutation register of the suit schedule properties.

9. On perusal of pleadings and documents produced, prima-facie it shows that the suit schedule properties are standing in the names of plaintiff No-1 and other defendants. It is not disputed by defendants and if the defendant -No 3 and 4 are not restrain, it will lead to multiplicity of proceedings and the very purpose of filing suit will be defeated.

10. In-order to grant order of temporary injunction, 3 essential ingredients have to be fulfilled, Prima-facie case, balance of convenience and irreparable loss or injury. Prima facie case includes maintainability of the suit and probability of plaintiffs succeeding in the case, i.e. entitlement for the reliefs sought. These documents at this stage show that the plaintiffs have made out prima facie case. Merits of the case cannot be decided at this

stage. Considering the nature of suit and materials available on record, this court is of the opinion that plaintiffs have made out prima facie case and balance of convenience lies in favour of plaintiffs. Therefore, if order of injunction is not granted, irreparable loss and injury would be caused to the plaintiffs rather than the defendants. For these reasons, I answer point No.1 and 3 in 'Affirmative' and point No.2 as "to the Plaintiffs if not granted".

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

ORDER

I.A.No.I filed by plaintiff No-2 under Order XXXIX Rule 1 and 2 of C.P.C is hereby allowed.

Defendant No-3 and 4, their agents, servants or anybody claiming under them are hereby temporary restrained from alienating the suit schedule properties, 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 **10th day of October, 2022**)

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