



IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT SIRA

Dated this the 2nd Day of April 2025

PRESENT: NARSIMHAMURTHY.A
B.A.,LL.B.,
Prl. Civil Judge & JMFC., Sira

O.S. No.315/2024

PLAINTIFF: Manjunatha S/o Late Shivanna,
Aged about 40 years,
R/at Melukunte village,
Kasaba Hobli, Sira Taluk,
Tumakuru District.
(By Sri. H.N., Advocate)

/Vs/

DEFENDANTS: 1. Smt. Rangamma W/o Late Shivanna,
Aged about 70 years,
R/at Melukunte, Kasaba Hobli,
Sira Taluk, Tumakuru District and
Others.

(By Sri. K.J.R., Advocate., for D.1,3,4,6)
(By Sri. J.A., Advocate for D.2, 5)

:I.A.No.I/2024

APPLICANT: **Manjunatha**

V/s

OPPONENTS: **Smt. Rangamma & Others**



ORDER ON IA.No.I

The plaintiff has filed application U/o XXXIX rule 1 and 2 of CPC., seeking prayer to grant T.I restraining the defendants No.5, his agents, servants or anybody acting on his behalf from from put up construction in the item No.2 and 3 of the suit schedule properties till disposal of the suit.

2. In the accompanying affidavit of the interim application, plaintiff has averred that, the plaintiff and defendant No.2 to 6 are the sons and daughters of defendant No.1. They are all the members of Hindu Undivided Joint family. The suit schedule properties are the ancestral and joint family properties of plaintiff and defendants. The defendant No.1 acquired the suit schedule properties through unregistered partition deed dated 08.04.2009. Accordingly, the revenue documents are mutated in the name of defendant No.1.

2a. The plaintiff further submitted that defendant No.1 being the old age person not capable to look after the



agricultural operation of the suit schedule properties. The defendant No.5 being the eldest son of the family. Taking undue advantage of that mismanage the joint family affairs. Plaintiff requested the defendants to allot the legitimate share of the plaintiff, but they refused to do so. Hence, plaintiff filed this application.

3. Per contra the defendant No.2 and 5 have appeared through their respective counsel and defendants filed an objections to the present application. Wherein it is contended that, the plaintiff and defendant No.5 have entered into oral partition in the year 2020 and they are entitled half share each in all the suit schedule properties and the same was accepted by both the parties. The plaintiff and defendant No.5 have jointly agreed and has given their consent that they have jointly pay sum of Rs.1,000/- per month each to their parents for their monthly maintenance and usufructs of the tamarind trees are left to their maintenance till their death. Accordingly plaintiff and defendant No.5 have separated from



the joint family.

4. Other defendants submitted that after oral partition the plaintiff himself has obstructing defendant No.5 to construct the residential house in his part of share. The application filed by the plaintiff is not maintainable. Hence, prayed to reject the application.

5. Heard, arguments from the plaintiff and defendants side. In view of the material placed before me and the rival contention raised by the parties. The following points have arisen for my consideration;

P O I N T S

1. Whether the applicant/plaintiff has made out a prima-facie case for the grant of TI as prayed?
2. Whether the balance of convenience lies in favor of plaintiff ?
3. Whether irreparable loss would be caused to the applicant/plaintiff, if the instant interlocutory application is not allowed?
4. What order ?



6. My answer to the above points are as under;

Point No1 : In Negative.

Point No.2 : In Negative.

Point No.3 : In Negative.

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

REASONS

7. **POINTS No.1 to 3:** These points are taken together for common discussions and to avoid the repetition of facts.

It is made clear that, at this stage, only whatever observation made below and opinion expressed are only for the purpose of disposal of this IA. These observations shall not carry any weigh in the final disposal of this case.

8. Having heard both sides, admittedly there is no dispute between plaintiff and defendants in respect of the relation as well as the suit schedule properties are the ancestral properties of plaintiff and defendants. The plaintiff seeking restrain defendant No.5 from put up construction in the item



No.2 and 3 of the suit schedule properties. In order to prove the condition of plaintiff he has produced revenue documents in respect of suit schedule properties. On perusal of the same it is clear that suit schedule properties are the ancestral properties of plaintiff and defendants. The plaintiff contended that the defendant No.5 is obstructing in the item No.2 and 3 of the suit schedule properties. In order to substantiate the case of plaintiff he has not produced any relevant documents. Moreover, defendant No.5 is one of the coparcener to the suit schedule properties. However, at the time of partition the plaintiff may get his legitimate share in all the suit schedule properties. At this stage the condition raised by the plaintiff is not believable. The injunction cannot granted against the co-owner. The plaintiff at this stage failed to prove the prima-facie.

9. From the above discussions, it is quite obvious that, the plaintiff has fail to make out prima-facie case for the grant of



TI as prayed. Accordingly, this court answered the **Point No.1 to 3 in the Negative.**

10. POINT No.4: Since the plaintiff has failed to make out a prima-facie case and failed to prove hardship and the balance of convenience, he is not entitled to discretionary and equitable relief of TI as prayed. Hence, for the aforesaid reasons, I proceed to pass the following:

ORDER

I.A. No. I filed by the plaintiff
U/o XXXIX Rule 1 and 2 of CPC is
hereby dismissed.

No order as to costs.

(Dictation given to the stenographer, transcribed and computerized by her, corrected, and then pronounced by me in the open court on this the **2nd day of April 2025**)

Sd/-
(**NARASIMHAMURTHY.A**)
Prl. Civil Judge & JMFC.,
Sira.