

KABI200000462025



**IN THE COURT OF THE CIVIL JUDGE & JMFC.,**

**AT: HAGARIBOMMANAHALLI**

DATED THIS THE 24<sup>th</sup> DAY OF JULY 2025

: **PRESENT:**

SRI. **SAYED MOHIUDDIN URF KHAWAJA PEERAN.**, BA. LLB.,(Spl.)  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

**O.S.No.13/2025**

- PLAINTIFF/s :**
- 1) **Tippavva @ Kavya S/o Maruthi Amrad,**  
Aged about 39 years, Occ: Coolie,  
R/o near Shankaracharya Mutt,  
Bhagyanagar, Tq: & Dist:Koppal.
  - 2) **Krishna S/o Hanumanthappa Ganapa,**  
Aged about 34 years, Occ: Auto Driver,  
R/o Ward No.4, Bhagyanagar, Tq: &  
Dist:Koppal.
  - 3) **Manjula W/o Maruthi Bugudi,**  
Aged about 31 years, Occ: Coolie,  
R/o near Panduranga Temple,  
Bhagyanagar, Tq: & Dist:Koppal.

**Vs**

- DEFENDANTS :**
- 1) **Parvathamma W/o Late Pampanna Kenchagondra,**  
Aged 74 years, Occ: Sinecure,  
R/o Near Government Higher Primary  
School, Old Hagaribommanahalli,  
Tq: Hagaribommanahalli, Dist:Vijayanagar.
  - 2) **Bhojappa S/o Virupalingappa Kenchagondra,**  
Aged 74 years, R/o Near Government Higher  
Primary School, Old Hagaribommanahalli,  
Tq: Hagaribommanahalli, Dist:Vijayanagar.

- 3) **Dinesh S/o Late Pampanna Kenchagondra,**  
Aged 50 years, R/o Near Government Higher  
Primary School, Old Hagaribommanahalli,  
Tq: Hagaribommanahalli, Dist:Vijayanagar.
- 4) **Nagavva W/o Late Devendrappa Gombi,**  
Aged 40 years, Occ: Sinecure,  
R/o Navanagara, Old Hagaribommanahalli,  
Tq: Hagaribommanahalli, Dist:Vijayanagar.
- 5) **Genappa S/o Late Pampanna Kenchagondra,**  
Aged 43 years, Occ: Ladies Tailor,  
R/o Near Government Higher Primary  
School, Old Hagaribommanahalli,  
Tq: Hagaribommanahalli, Dist:Vijayanagar.
- 6) **Virupakshi S/o Late Pampanna  
Kenchagondra,**  
Aged 38 years, Occ: Auto driver,  
R/o Near Government Higher Primary  
School, Old Hagaribommanahalli,  
Tq: Hagaribommanahalli, Dist:Vijayanagar.
- 7) **Anusuya W/o Basavaraja Honnala,**  
Aged 35 years, Occ: Sinecure,  
R/o Near Government Higher Primary  
School, Old Hagaribommanahalli,  
Tq: Hagaribommanahalli, Dist:Vijayanagar.

**I.A.No.IV**

**APPLICANTS/PLAINTIFFS: Tippavva @ Kavya S/o Maruthi  
Amrad and others.**

(Rep. by Sri.**B.C.G.**, Advocate)

**V/s**

**RESPONDENTS/DEFENDANTS: Parvathamma W/o Late  
Pampanna Kenchagondra  
and others.**

(Def.No.1 to 6 Rep. by Sri.**A.K.**, Advocate)  
(Def.No.7 placed exparte)

**ORDER ON I.A.No.IV**

The plaintiffs have filed the IA No.IV under Order 39 Rule 1 and 2 R/w Sec.151 of CPC., for the relief of temporary injunction to restrain the defendant No.1 and 2 from alienating the suit schedule properties bearing Sy.No.836/B2 measuring 0.53 acres, Sy.No.836/B1 measuring 1.05 acres, Sy.No.839/C measuring 0.32 acres, Sy.No.840/A measuring 1.05 acres and Sy.No.841/A measuring 0.96 acres situated at Kadlabalu Village, H.B.Halli Taluk till disposal of the suit.

**2.** In the accompanying affidavit to the said IA., it is stated by the plaintiff No.2 that, the plaintiffs have filed the present suit against the defendants for the relief of partition and separate possession with respect of suit schedule properties. The suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. Till today no partition has been effected between the plaintiffs and defendants with respect of suit schedule properties. The suit schedule properties are stands in the name of defendants. The defendants are trying to alienate the suit schedule properties. The plaintiffs are the joint family members, they

are having legitimate share in the suit schedule properties. Without the knowledge and consent of the plaintiffs, the defendants have got mutated the suit properties into their names. They have approached the defendants to allot their legitimate share, but before the elders the defendants have refused to allot their legitimate share. If the defendants have succeeded in their act, the plaintiffs will be put to hardship. They have made out prima facie case, balance of convenience lies in their favour. If the temporary injunction order is not granted they will be put to hardship. If the temporary injunction is granted no injustice will be caused to the other side. Hence, they pray to allow the IA.

**3.** Defendants No.1 to 6 have appeared before the Court through their Counsel, but not filed any written statement and objections to I.A.No.IV. The defendant No.7 inspite of service of summons not appeared before the Court and proceedings made exparte.

**4.** Heard the arguments and perused the records.

**5.** The following points arise for my consideration:

**1. Whether the plaintiffs have made out *prima-facie* case?**

**2. Whether the balance of convenience lies in favour of the plaintiffs?**

**3. Whether the plaintiffs will be put to irreparable loss and injury, if the order of Temporary Injunction is not granted?**

**4. What order?**

**6.** My answers to the above points are as under:

Point No.1 : In the **AFFIRMATIVE**

Point No.2 : In the **AFFIRMATIVE**

Point No.3 : In the **AFFIRMATIVE**

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

### **REASONS**

**7. Point No.1 to 3**:- As the facts involved in point Nos.1 to 3 are interlinked together, hence they are taken up together for common consideration.

**8.** The present suit is filed by the plaintiffs against the defendants for the relief of partition and separate possession with respect of the suit schedule properties. According to the plaintiffs the suit schedule properties are the ancestral and

joint family properties of plaintiffs and defendants. The Propositus Virupalingappa and his wife Kamma died in the year 1995 and 1999 respectively. The father of the defendant No.3 to 7 and husband of the defendant No.1 Pampanna, defendant No.2 Bhojappa, mother of the plaintiffs Sulochamma and one Genamma are the children to the Virupalingappa and Kamma. The said Genamma and her husband died issueless. The mother of the plaintiffs Sulochamma died in the year 2000 and father of the plaintiffs Hanumanthappa S/o Kadleppa Ganapa died on 08.11.2014. Till today no partition has been effected with respect of suit schedule properties between the plaintiffs and defendants. They are in joint possession and enjoyment of the same. They are having their legitimate share in the suit schedule properties. They have requested the defendants to allot their legitimate shares, but the defendants have refused to allot the same. Hence, they have filed the present suit.

As stated above the defendant No.1 to 6 have appeared before the Court through their Counsel, but not filed any

written statement. The defendant No.7 has not appeared before the Court and proceedings made exparte.

9. I have perused the documents produced by the plaintiffs. At this stage the plaintiffs have produced the RTC extract of Sy.No.836/B measuring 1.58 acres for the year 2001-02 to 2010-11, in the said RTC extracts the name of Propositus Virupalingappa S/o Hampanna is entered. The plaintiffs have produced the RTC extracts of suit item No.1 bearing Sy.No.836/B2 measuring 0.53 acres for the year 2011-12 to 2024-25, on going through the same prima facie it appears that, the said property is standing in the name of defendant No.2. The plaintiffs have produced the RTC extracts of suit item No.2 Sy.No.836/B1 measuring 1.05 acres for the year 2011-12 to 2024-25, on going through the said document prima facie it appears that the said property standing in the name of defendant No.1. The plaintiffs have produced the RTC extracts of suit item No.3 Sy.No.839C measuring 0.32 acres from the year 2001-02 to 2010-11, in the said RTC extracts the name of Propositus Virupalingappa S/o Hampamma is entered. Further the plaintiffs have

produced the RTC extracts of the said property from the year 2012-13 to 2024-25, on going through the said documents, prima facie it appears that the said property stands in the name of defendant No.1. The plaintiffs have produced the RTC extracts of Sy.No.840 measuring 1.98 acres from the year 2001-02 to 2010-11. In the said RTC extracts the name of Propositus Virupalingappa is entered. The plaintiffs have produced the RTC extracts of said survey number from the year 2011-12 to 2021-22, in the said RTC extracts the name of defendant No.1 entered to an extent of 1.05 acres and the name of defendant No.2 entered to an extent of 0.93 acres. The plaintiffs have produced the RTC extracts of suit item No.4 Sy.No.840/A measuring 1.05 acres for the year 2023-24 and 2024-25, on going through the same prima facie it appears that the said property is standing in the name of defendant No.1. The plaintiffs have produced the RTC extracts of suit schedule property item No.5 Sy.No.841/A measuring 0.96 acres from the year 2001-02 to 2010-11, in the said RTC extracts the name of Propositus Virupalingappa is entered. The plaintiffs have produced the RTC extract of

the said property from the year 2012-13 to 2024-25, on going through the same prima facie it appears that the said property is entered in the name of defendant No.2. The plaintiffs have produced the Death certificates of their father Hanumanthappa and mother Rudramma. The plaintiffs have produced the certified copy of Mutation file of M.R.No.8/2011-12. The plaintiffs have produced the Mutation No.8/2011-12, as per the said document prima facie it appears that on the basis of partition the suit schedule properties have entered in the name of defendant No.1 and 2. The plaintiffs have produced the certified copy of M.R.No.T.126.

**10.** It is the suit for partition and separate possession filed by the plaintiffs against the defendants with respect of suit schedule properties. Whether the plaintiffs are having their share in the suit schedule properties will be decided only after full fledged trial. As per the RTC extracts produced by the plaintiffs which are discussed above in detail, prima facie it appears that the suit schedule properties item No.1 and 5 are standing in the name of defendant No.2 and other

suit schedule properties are standing in the name of defendant No.1. If during pendency of the suit, the defendants have alienated the suit schedule properties to the third parties it cause injustice to the plaintiffs, further it amounts to multiplicity of the proceedings and it effects the rights of the parties. Preserving the suit schedule properties till disposal of the suit is very much necessary. On going through the materials available on record, I am of the opinion that, the plaintiffs have made out prima facie case and balance of convenience lies in their favour. If the Temporary Injunction order is granted no injustice will be caused to the defendants. If the Temporary Injunction order is not granted injustice will be caused to the plaintiffs. On the basis of above reasons and discussions I hold **Point No.1 to 3** in the **AFFIRMATIVE**.

**11. Point No.4** :- For the aforesaid reasons and discussions made above, I proceed to pass the following:-

**ORDER**

The defendant No.1 and 2 are hereby  
restrained from alienating the suit schedule  
properties till further orders.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and  
then pronounced in the open court on this the **24<sup>th</sup> day of July 2025.**)*

**(SAYED MOHIUDDIN URF KHAWAJA PEERAN)**  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.