

KAVN300016302017



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

**AT: HAGARIBOMMANAHALLI**

DATED THIS THE 2<sup>nd</sup> DAY OF DECEMBER 2025

: **PRESENT:**

SRI. **SAYED MOHIUDDIN URF KHAWAJA PEERAN.**, BA. LLB.,(Spl.)

CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

**O.S.No.138/2017**

- PLAINTIFF/s :**
- 1) **H.M.Sujatha W/o H.M.Channa Veeraiah,**  
Aged about 42 years, Coolie, R/o  
Basarakodu Village, H.B.Halli Taluk,  
Ballari District now residing at  
Hosamalapanagudi, Hosapete Taluk,  
Ballari District.
  - 2) **Kum.H.M.Shilpa D/o H.M.Channa  
Veeraiah,**  
Aged about 19 years, R/o Basarakodu  
Village, H.B.Halli Taluk,  
Ballari District now residing at  
Hosamalapanagudi, Hosapete Taluk,  
Ballari District.

**Vs**

- DEFENDANTS :**
- 1) **Smt.Mahadevamma W/o Sharanaiah,**  
Aged 50 years, Occ: Housewife,  
R/o Basarakodu Village, H.B.Halli Taluk.
  - 2) **Smt.Kamma W/o Suresha,**  
Aged 28 years, Occ: Housewife,  
R/o Neharo colony, Old H.B.Halli,  
Ballari District.

- 3) **Kotresh S/o Sharanaiah,**  
Aged 22 years, Occ: Agriculturist,  
R/o Basarakodu Village, H.B.Halli  
Taluk, Ballari District.
- 4) **Channaveeraiah S/o H.M.Veeraiah,**  
Aged 48 years, Occ: Agriculturist,  
R/o Basarakodu Village, his whereabouts  
are not known since 12 years.
- 5) **Veerabhadraiah S/o H.M.Veeraiah,**  
Aged 40 years, Occ: Agriculturist,  
R/o Basarakodu Village, H.B.Halli  
Taluk.
- 6) **Smt.Mangamma W/o Sannaveeragouda,**  
Aged 46 years, Occ: Household,  
R/o Tumbinakeri Village, Hadagali  
Taluk, Ballari District.
- 6) **Smt.Mangamma W/o Sannaveeragouda,**  
Aged 46 years, Occ: Household,  
R/o Tumbinakeri Village, Hadagali  
Taluk, Ballari District.
- 7) **Smt.Sunanda W/o Basavarajaiah,**  
Aged 35 years, Occ: Housewife,  
R/o Kallahalli Village, Hadagali  
Taluk, Ballari District.
- 8) **Smt.Kotramma W/o Kotraiah,**  
Aged 30 years, Occ: Housewife,  
R/o Mahajanadahalli Village,  
Hadagali Taluk, Ballari District.
- 9) **Smt.Shakuntala W/o Mayura,**  
Aged 27 years, R/o Kampli Town,  
Hosapete Taluk, Ballari District.
- 10) **Smt.Karibasamma W/o Veeresh,**  
Aged 23 years, Occ: Housewife,  
R/o Dupadahalli, Kudligi Taluk,  
Ballari District.

- 11) **Barikara Sanna Devakka**  
**W/o Hanumanthappa dead by her Lrs.,**
- 11(a) **Hanumanthappa S/o Late Gangappa,**  
Aged about 75 years, Occ: Agriculturist,  
R/o Basarakodu Village, H.B.Halli Taluk,  
Vijayanagara District.
- 11(b) **Suresh S/o Late Hanumanthappa,**  
Aged about 40 years, Occ: Agriculturist,  
R/o Basarakodu Village, H.B.Halli Taluk,  
Vijayanagara District.
- 11(c) **Mayura S/o Late Hanumanthappa**  
Aged about 35 years, Occ: Agriculturist,  
R/o Basarakodu Village, H.B.Halli Taluk,  
Vijayanagara District.
- 11(d) **Neelamma D/o Late Hanumanthappa**  
Aged about 40 years, Occ: Agriculturist,  
R/o Kotturu Town and Taluk,  
Vijayanagara District.
- 11(e) **Vasudeva S/o Late Devakka dead by his Lrs.,**
- 11(e)(1) **Smt.Kotramma W/o Late Vasudeva,**  
Aged about 35 years,
- 11(e)(2) **Kumari Kavana D/o Late Devakka,**  
Aged about 18 years,
- 11(e)(3) **Kumari Keerthi D/o Late Devakka,**  
Aged about 17 years,  
since minor represented by her natural  
guardian mother Smt.Kotramma  
W/o Vasudeva.
- 11(e)(4) **Kumari Archana D/o Late Vasudeva,**  
Aged about 10 years, since minor  
represented by her natural guardian  
mother Smt.Kotramma W/o Vasudeva.

All are R/o Basarakodu Village,  
H.B.Halli Taluk, Vijayanagara District.

**I.A.No.II**

**APPLICANTS/PLAINTIFFS: H.M.Sujatha W/o H.M.Channa  
Veeraiah and another,**

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

**V/s**

**RESPONDENTS/DEFENDANTS: Smt.Mahadevamma W/o  
Sharanaiah and others**

(Def.No.1 to 4, 6 to 8, 9 & 10 placed exparte)  
(Def.No.5 Rep. by Sri.**L.H.N.**, Advocate)  
(Def.No.11(a) to (d), 11(e)(1) to 11(e)(4)  
Rep. by Sri.**A.M.K.**, Advocate)

**ORDER ON I.A.No.II**

The plaintiffs have filed the IA No.II under Order 39 Rule 1 and 2 of CPC., seeking the relief of temporary injunction to restrain the defendants from alienating the suit schedule properties bearing Sy.No.161A/1A, measuring 2.65 acres, Sy.No.172/A/A2, measuring 0.77 acres, Sy.No.172A/1, measuring 2.64 acres and Sy.No.167B/2B, measuring 0.41 acres situated at Basarakodu 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.1 that, defendant No.4 is her husband, plaintiff No.2 is their daughter. Their marriage was solemnized on 25.05.1995. The defendant No.1 is the wife of Sharanaiah who is the brother of husband of plaintiff No.1. The defendant No.2 and 3 are children of said Sharanaiah. Her husband defendant No.4 is not in station from 12 years and his whereabouts are not known. The defendant No.5 is the brother of defendant No.4. Defendant No.6 to 10 are the sisters of defendant No.4. The plaintiffs and defendant No.1 to 11 are the members of Hindu Undivided Joint family. The marriages of defendant No.6 to 10 have solemnized by their brothers and father by spending huge amount. At the time of marriage they have received gold ornaments towards their share, therefore they have not entitled to claim any share in the suit schedule properties. The suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. In all, the suit schedule properties measuring 5.83 acres. The husband of the plaintiff No.1 and his brothers were orally partitioned the suit schedule properties. The

defendant No.1 and her husband in collusion with the revenue authorities got mutated their names in the revenue records of Sy.No.172A/1. They have also got effected the mutation in respect of Sy.No.172A/2 to an extent of 0.77 acres. The defendant No.1 and 3 in collusion with each other have alienated the said property to the defendant No.11. Later on the defendant No.1 died, her husband and his brothers have made partition, in the said partition 2.65 acres of land was fallen to the share of her husband, in the said property till today they are in possession and enjoyment of the same. They have requested the defendants to allot their legitimate share in the suit schedule properties, but the defendants have not allotted the share to them. The defendants alone have no manner of right, title and interest over the suit schedule properties. The defendants are trying to alienate the suit schedule properties to 3<sup>rd</sup> parties. If they 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 prays to allow the IA.

**3.** After registration of the suit, suit summons were issued to the defendants. The defendants served with the same. The defendant No.1 to 4, 6 to 8, 9 and 10 have not appeared before the Court and proceeding made exparte. The defendant No.5 has appeared before the Court through his Counsel, but not filed any written statement. The defendant No.11 has appeared before the Court through her Counsel and filed the written statement. During the course of trial the defendant No.11 reported as dead, her legal heirs i.e., defendant No.11(a) to 11(e) are brought on record. Defendant No.11(e) also reported as dead, his legal heirs i.e., defendant No.11(e)(1) to 11(e)(4) are brought on record. The defendant No.11 and her legal heirs have filed their written statements. In the written statements they have denied the case of the plaintiffs, and further contended that suit schedule item No.1 property bearing Sy.No.161/A/A1 measuring 2.65 acres is the self acquired property of

H.M.Veeraiah S/o Lingaiah who is the father of defendant No.4 to 10. He had purchased the said property from its lawful owners Gurubasavaraja and Vishwanatha as per the registered sale deeds dated 04.09.1975 and 04.05.1992. As per the sale deeds mutation have been effected. During the life time of the said H.M.Veeraiah partition was effected, in the said partition the said property was fallen to the share of defendant No.5. The suit schedule item No.1 property is not at all the ancestral and joint family property of plaintiffs and defendant No.1 to 10. The said property is the self acquired property of defendant No.5. Smt.Devakka W/o Hanumanthappa i.e., defendant No.11 was purchased the said property, she was the bonafide purchaser of the said property. She was purchased the said property under the registered sale deed dated 13.04.2009 from the defendant No.5. The plaintiffs with an intention to harass the defendants filed the false suit. The plaintiffs have not included the lands bearing Sy.No.161/A/1A measuring 3.18 acres which is standing in the name of Sri.Banada Hanumanthappa S/o Bharamappa, Sy.No.172/A/2 measuring 0.77 acres which is standing in the

name of B.C.Basavappa S/o S.Chandrappa, Sy.No.172/A/1 measuring 2.64 acres which is standing in the name of H.M.Veeraiah S/o Gurulingaiah, O.M.Sanna Kotraiah S/o O.M.Shivamurthaiah, H.M.Mahadevakka W/o Late H.M.Sharanaiah, H.M.Sharadamma W/o Late H.M.Umapathi, therefore the suit is bad for non-joinder of necessary parties and properties. The defendant No.11 and her legal heirs have dig the bore-well in the suit item No.1 property and they have obtained the permission for electric connection from the K.E.B. They have invested huge amount to develop the suit item No.1 property. The defendant No.11 and her legal heirs are in exclusive possession and enjoyment of the suit item No.1. With an intention to harass the defendants, the plaintiffs have filed the false suit. Hence, they prays to dismiss the suit as well as I.A.

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 **NEGATIVE**

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

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

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 plaintiff No.1 is the wife of defendant No.4, plaintiff No.2 is their daughter. The defendant No.1 is the wife of Sharanaiah who is the brother of

husband of plaintiff No.1. The defendant No.2 and 3 are the children of defendant No.1 and said Sharanaiah. The husband of plaintiff No.1 i.e., defendant No.4 is not residing in station from 12 years and whereabouts of defendant No.4 are not known. The defendant No.5 is the brother of defendant No.4. Defendant No.6 to 10 are the sisters of defendant No.4 and 5. The plaintiffs and defendants are the members of Hindu Undivided Joint family. The suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. An oral partition was effected between the husband of the plaintiff No.1 and his brothers. The defendant No.1 and her husband in collusion with the revenue authorities got effected the mutation in their names with respect of Sy.No.172A/1. The defendant No.1 and 3 in collusion with each other have sold the Sy.No.172A/2 to an extent of 0.77 acres to the defendant No.11. In the oral partition Sy.No.161/A/1a measuring 2.65 acres of land was fallen to the share of husband of plaintiff No.1. From the date of said partition, she is in actual possession and enjoyment of the said property. The plaintiffs have requested the

defendants to allot their legitimate share, but the defendants have not allotted their share. Hence, they have filed the present suit.

9. The contention of the defendant No.11 and her legal heirs that the suit item No.1 property bearing Sy.No.161/A/A1 measuring 2.65 acres of land is the self acquired property of H.M.Veeraiah S/o Lingaiah who is the father of defendant No.4 to 10. The said H.M.Veeraiah had purchased the said property from its lawful owners Gurubasavaraja and Vishwanatha as per the registered sale deeds dated 04.09.1975 and 04.05.1992. During the life time of the said H.M.Veeraiah partition was effected, in the said partition the said suit item No.1 property was fallen to the share of defendant No.5. The defendant No.5 has sold the said property in favour of defendant No.11. The defendant No.11 is the bonafide purchaser of the said property. During her life time, she was in possession and enjoyment of the same. After her death, her legal heirs are in possession and enjoyment of the same. The suit is bad for non-joinder of

necessary parties and properties. Hence, they pray to dismiss the I.A.

**10.** I have perused the documents produced by the parties. At this stage the plaintiffs have produced the RTC extract of suit item No.1 property bearing Sy.No.161/A/1a measuring 2.65 acres, on going through the same prima facie it appears that as on the date of filing of the suit the said property stands in the name of defendant No.5. The plaintiffs have produced the RTC extract of suit item No.2 property bearing Sy.No.172/A/2 measuring 0.77 acres, on going through the same prima facie it appears that as on the date of filing of the suit the said property stands in the name of B.C.Basavaraja S/o S.Chandrappa. The said B.C.Basavaraja S/o S.Chandrappa is not a party to the present suit. The plaintiffs have produced the RTC extract of suit item No.3 property bearing Sy.No.172/A/1 measuring 2.64 acres, on going through the same prima facie it appears that total extent of the said property is 2.64 acres, out of which 1.23 acres of land standing in the name of defendant No.1, 0.77

acres of land standing in the name of Panchinala Mathada Veeraiah, Panchaka S/o Gurulingaiah Basarakoda, 0.64 acres of land standing in the name of O.M.Sanna Kotraiah S/o O.M.Shivamurthaiah Basarakoda. The plaintiffs have produced the RTC extract of suit item No.4 bearing Sy.No.167/B/2B, on going through the said document prima facie it appears that the said property stands in the name of O.M.Sanna Kotraiah S/o O.M.Shivamurthaiah Basarakoda. The plaintiffs have not made the above said persons as a parties to the present suit. In the plaint the plaintiffs have not stated anything that why they have not made the said persons as parties in the present suit. The persons appearing in the RTC extracts of the suit item No.2 to 4 are not the parties to the present suit. On going through the above said documents, it clearly discloses that plaintiffs have failed to made out prima facie case for granting of temporary injunction. Therefore, if temporary injunction is granted it cause injustice to the defendants. As such, I answer **Point No.1 to 3** in the **NEGATIVE**.

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

**ORDER**

I.A.No.II filed by the plaintiffs under Order 39 Rule 1 & 2 of CPC., is hereby dismissed.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and then pronounced in the open court on this the 2<sup>nd</sup> day of December 2025.)*

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