

Order below Exh.5 in RCS 132/2020  
Akkatai Teli Vs. Mallappa & Ors.

The interim injunction application is under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (the C.P.C).

2 Perused the application, and the record.

3 Heard.

4 The suit is for partition, and other consequential reliefs. The suit is proceeded ex-party against the defendants vide Exh.1 dated 22/02/2021, pass by the learned predecessor.

5 The plaintiff has filed the following documents viz.,

Sr.No	Particulars of the documents
1	VF No.8
2	VF No.7 and 12 (total 4)
3	M.E 344

6 The defendant have not relied upon the any documents.

7 The following points arose for my determination, to which I record my findings together with the reasons thereof:-

Sr.No	Points for determination	Findings
1	Does the plaintiff proves prima-facie case in her favor?	Yes
2	Does the plaintiff proves balance of convenience tilts in her favor?	Yes
3	Does the plaintiff proves she would suffer irreparable loss, if interim injunction is refused?	Yes
4	What order?	As per the final order.

Reasons

Points 1 to 3

7 It is sine qua non for the grant of an interim relief, which is an equitable relief that the plaintiff, should prima-facie, prove the above points for determination.

8 It is trite law that prima-facie, does not mean prima-facie, title or the case proved to the hilt.

9 It is settled law that grant of equitable relief is a matter of judicial discretion, and the plaintiff, should approach the Court with clean hands.

10 The pleadings and the material on the record has to be judicially scanned.

11 The nature of the suit property is contended to be ancestral. On Prima facie, perusal of M.E 344, it appears that the father of the plaintiff and the defendant i.e., the deceased Mahalinga, applied whereby the name of the defendant during his minority, came to be recorded on the revenue record of the suit properties. There is no denial or the dispute of the fact that the plaintiff is the sister of the defendant or the daughter of the deceased Mahalinga. Prima facie, the plaintiff is a co-parcener in respect of the suit properties. The suit is for partition, on the basis of the M.E 344, the defendant's name appears on the revenue record. The apprehension of the plaintiff is prima-facie made out. If the defendant creates party, right, title, and interest in the suit property, it may create multiplicity of the proceedings. For the above reasons, the plaintiff proves prima facie in her favour. The balance tilts in her favour. The plaintiff may suffer irreparable loss, if interim injunction is refused. Cost follows the event. Hence, the following

#### Order

The application is allowed.

2 The defendant himself, his agent, servent, attorney or nobody claiming through him is hereby restrained by an order of temporary injunction from creating third party right, title, and interest in the suit property, more particularly mentioned in para 1 of the plaint till disposal of the suit.

3 The plaintiff to serve upon the defendant an intimation of the instant order via R.P.A.D and file on record service affidavit.

Jath  
Date:06/01/2025

(Sanjay P.Bunde)  
Jt.CJJD, Jath