



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

MISCELLANEOUS FIRST APPEAL NO.909 OF 2026 (CPC)

BETWEEN:

1. R.C.MUNIRAJU,
S/O LATE R. CHINNAPPA,
AGED ABOUT 53 YEARS,
2. R.C.MARIYAPPA,
S/O LATE R. CHINNAPPA,
AGED ABOUT 45 YEARS
3. MARIYAPPA,
S/O LATE RAMAIAH,
AGED ABOUT 86 YEARS,

APPELLANT NOS.1 TO 3 ARE
R/AT NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD, MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU DISTRICT-562125.

REP. BY THEIR SPA HOLDER:
M. RAMESH
S/O LATE MARIYAPPA,
AGED ABOUT 48 YEARS,
R/AT NO.619, NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD,
MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU-562125.

...APPELLANTS

(BY SMT. SHREYA S. KUMAR, ADVOCATE FOR
SRI SIJI MALAYIL, ADVOCATE)



AND:

1. R.C. MUNIYAPPA,
S/O LATE R. CHINNAPPA,
AGED ABOUT 56 YEARS,
RESIDING AT NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD,
MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU-562125.
2. KRISHNAPPA,
S/O LATE RAMAIAH,
AGED ABOUT 75 YEARS,
RESIDING AT NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD,
MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU-562 125.
3. R.E. KRISHNAPPA,
S/O LATE R.C. ERAPPA,
AGED ABOUT 54 YEARS,
RESIDING AT NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD,
MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU-562125.
4. SMT. R.E. MARIYAMMA,
D/O LATE R.C. ERAPPA,
AGED ABOUT 49 YEARS,
R/AT OLD NO.117, NEW NO.120,
ANJANEYA TEMPLE STREET,
MESTRIPALYA, 4TH BLOCK,
KORMANAGALA, BENGALURU-560034.
5. SMT. VEKATALAKSHMI,
D/O LATE MUTHAPPA,
AGED ABOUT 52 YEARS,



6. BHASKAR BABU
S/O MUNIRAJU & VENKATALAKSHMI,
AGED ABOUT 32 YEARS,
7. MRS. LAVANYA,
D/O MUNIRAJU & VENKATALAKSHMI,
AGED ABOUT 30 YEARS,
8. SHIVA KUMAR,
S/O MUNIRAJU & VENKATALAKSHMI,
AGED ABOUT 28 YEARS,

RESPONDENT/DEFENDANT NOS.5 TO 8 ARE
R/AT NO.581, KOMMASANDRA ROAD,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU DISTRICT-562 125.

9. G. ABBAIAH @ ABBAIYAPPA,
S/O LATE GUNDAPPA,
AGED ABOUT 73 YEARS,
10. SMT. MARIYAMMA,
D/O MR. G. ABBAIAH @ ABBAIYAPPA,
W/O THANAPPA,
AGED ABOUT 48 YEARS,

RESPONDENT NOS.9 AND 10 ARE
R/AT NO.614, KOMMSANDRA ROAD,
MUTTHAYYANA THOTA ROAD,
NEAR ANJANEYA TEMPLE, 6TH WARD,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU DISTRICT-562 125.

11. SMT. PUSHPA .A
D/O. MR. G. ABBAIAH @ ABBAIYAPPA,
W/O. MANJUNATH .M,
AGED ABOUT 34 YEARS,
R/AT NO.21, KAITHOTA-IMMADIHALLI,
WHITE FILED POST, K R PURAM HOBLI,
BENGALURU EAST TALUK,
BENGALURU-560 066.



12. G.MARIYAPPA,
S/O LATE GUNDAPPA,
AGED ABOUT 61 YEARS,
R/AT NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD,
MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU-562 125.
13. SMT. GOWRAMMA,
W/O LATE MR. PILLAPPA @ D.M.MUTHAPPPA,
AGED ABOUT 80 YEARS,
14. SMT. MUNILAKSHMAMMA,
D/O LATE MR. PILLAPPA @ D.M.MUTHAPPPA,
AGED ABOUT 52 YEARS,
15. RAJU D.M.
S/O LATE MR. PILLAPPA @ D.M.MUTHAPPPA,
AGED ABOUT 45 YEARS,
16. D.M.BABU,
S/O LATE MR.PILLAPPA @ D.M.MUTHAPPPA,
AGED ABOUT 43 YEARS,

RESPONDENT NOS.13 TO 16 ARE
R/AT NO.622, MUTHAIAHANA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU DISTRICT-562 125.
17. SMT. SHANTHAMMA,
W/O KRISHNAPPA,
AGED ABOUT 61 YEARS,
18. SMT. YELLAMMA,
W/O KRISHNAPPA,
AGED ABOUT 59 YEARS,
19. SMT. PREMA .K
D/O KRISHNAPPA,
AGED ABOUT 43 YEARS,



20. MR. VENUGOPAL,
S/O KRISHNAPPA,
AGED ABOUT 41 YEARS,

21. MR. HARISH .K,
S/O KRISHNAPPA,
AGED ABOUT 39 YEARS,

22. SMT. LEELAVATHI,
D/O KRISHNAPPA,
AGED ABOUT 41 YEARS,

RESPONDENT/DEFENDANT NOS.17 TO 22 ARE
R/AT NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD, MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU DISTRICT-562 125.

23. SMT. K. GIRIJA,
D/O KRISHNAPPA,
AGED ABOUT 39 YEARS,
R/AT NO.1005,
BEHIND CHANNARAYASWAMY TEMPLE,
KOTEBEEDI, 5TH CROSS ROAD,
VARTHUR, BENGALURU EAST TALUK,
BENGALURU-560 087.

24. SMT. K. VANAJA @ BHAVYA,
D/O KRISHNAPPA,
AGED ABOUT 35 YEARS,
R/AT KURUBARAHALLI,
SHIVAKOTE POST,
HESARAGHATTA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU-560 089.

25. SMT. HEMAVATHI,
D/O KRISHNAPPA,
AGED ABOUT 31 YEARS,
R/AT DOMMASANDRA VILLAGE,
SARJAPURAHOBOLI, ANEKAL TALUK,
BENGALURU-562 125.



26. C.M. MUNIYAPPA,
S/O LATE CHIKKAMUTHAPPA,
AGED ABOUT 64 YEARS,

27. C.M. MUTHAPPA,
S/O LATE CHIKKAMUTHAPPA,
AGED ABOUT 62 YEARS,

28. C.M. MARIYAPPA,
S/O LATE CHIKKAMUTHAPPA,
AGED ABOUT 60 YEARS,

RESPONDENT/DEFENDANT NOS.26 TO 28 ARE
R/AT NEAR ANJANEYA TEMPLE,
KOMMASANDRA ROAD,
MUTHAIAHNA THOTA,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU-562 125.

29. SMT. S. MANJULA,
D/O D.P. SHIVARAMA REDDY,
W/O NAGESH .K.V,
AGED ABOUT 44 YEARS,
R/AT NO.131, KOTIGANAHALLI,
NEAR BUS STOP, WARD NO.1,
DOMMASANDRA, SARJAPURA HOBLI,
ANEKAL TALUK, BENGALURU-562 125.

30. M/S. NAMBIAR ENSEMBLE RESIDENTIAL PROJECTS LLP.,
A FIRM REGISTERED UNDER
THE PROVISIONS OF LLP ACT,
HAVING ITS REGISTERED OFFICE AT
NO.60, 2ND FLOOR, P R BUSINESS CENTER,
ABOVE CROMA, ORR, MARATHAHALLI,
BENGALURU-560103.
REP. BY ITS PARTNER
B.C.UMESH BABU.

31. SMT. S. MANJULA,
D/O D.P. SHIVARAMA REDDY,
W/O NAGESH .K.V,
AGED ABOUT 44 YEARS,
R/AT NO.131, KOTIGANAHALLI,
NEAR BUS STOP, WARD NO.1,



DOMMASANDRA, SARJAPURA HOBLI,
ANEKAL TALUK, BENGALURU-562 125.

32. M.G. SRINIVASA,
S/O GONAPPA,
AGED ABOUT 55 YEARS,
R/AT M. MADIVALA VILLAGE,
MARASURU POST, KASABA HOBLI,
ANEKAL TALUK, BENGALURU-562 106.
33. A. KARUNAKARA REDDY,
S/O MOHAN REDDY,
AGED ABOUT 42 YEARS,
R/AT FLAT NO.D-18,
JANAJIVANA SPENDER-1,
NAGANATHAPURA,
BENGALURU-560 100.
34. DUVOORI MALLIKARJUNA REDDY,
S/O DUVOORI VENKATARAMANA REDDY,
AGED ABOUT 34 YEARS,
R/AT NO.8-112, D NARAYANA PALLI,
RANGASAMUDRAM POST,
PEDDATHIPPASAMUDRAM,
CHITTOOR, ANDHRA PRADESH-517 391.
35. MUDDIREDDY SANTOSH REDDY,
S/O MUDDIREDDY ADINARAYANA REDDY,
AGED ABOUT 31 YEARS,
R/AT FLAT NO.205, 3RD FLOOR,
SSV RESIDENCY,
KANNAMANAGALA VILLAGE,
SINGEHALI, WHITEFIELD MAIN ROAD,
BENGALURU-560 067.
36. APPAMMA GARI GANGADHAR REDDY
S/O APPAMMA GARI RAMESH REDDY,
AGED ABOUT 32 YEARS,
R/AT NO.10-2, APPAMMAGARIPALLI,
KANNEMADUGU, THAMBALLAPALLE,
CHITTOOR, ANDHRA PRADESH-517 418.
37. SATHISH .S
S/O RATHNAMMA,
AGED ABOUT 31 YEARS,



RESIDING AT NO.27,
NEAR VAGDEVI VILAS SCHOOL,
VARTHUR, BENGALURU EAST TALUK,
BENGALURU-560 087.

38. MUNIRAJA .P,
S/O NARASIMHALU,
AGED ABOUT 47 YEARS,

39. NAKINTI RAJA,
S/O VENKATARATHNAM,
AGED ABOUT 41 YEARS,

RESPONDENT NOS.38 & 39 ARE
RESIDING AT NO.24,
HANUMANTH REDDY LAYOUT,
KODTHI MAIN ROAD,
CARAMEL RAM POST,
BENGALURU-560 035.

40. SMT. INDIRA,
W/O SUBRAMANI,
AGED ABOUT 41 YEARS,
R/AT NEAR MASJID,
DOMMASANDRA VILLAGE,
SARJAPURA HOBLI, ANEKAL TALUK,
BENGALURU-562 125.

41. SMT. C. LAHARI,
W/O A. KARUNAKAR REDDY,
AGED ABOUT 33 YEARS,
R/AT FLAT NO.D-18,
JANAJIVANA SPENDER-1,
NAGANATHAPURA,
BENGALURU-560 100.

42. THE THASILDHAR,
ANEKAL TALUK,
BENGALURU URBAN,
BENGALURU-562 106.

...RESPONDENTS

(BY SRI B.N. PRAKASH, ADVOCATE FOR C/R NO.30)



THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF THE CPC AGAINST THE ORDER DATED 05.01.2026 PASSED ON I.A.NO.II IN O.S.NO.1370/2025 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, ANEKAL, DISMISSING THE I.A.NO.II FILED UNDER ORDER 39 RULE 1 AND 2 R/W SECTION 151 OF CPC, 1908.

THIS APPEAL COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

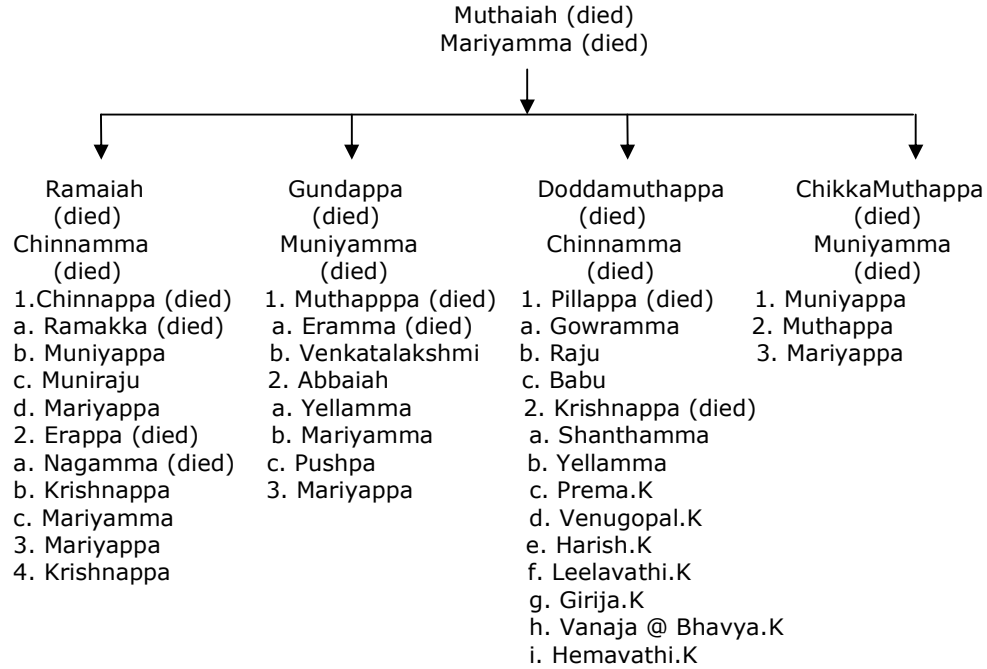
The present Miscellaneous First Appeal is filed by the plaintiffs in OS No. 1370/2025 calling in question the order dated 05.01.2026 passed by the II Additional Senior Civil Judge and JMFC, Anekal ('the Trial Court' for short) on I.A No. II filed under Order XXXIX Rule 1 and 2 read with Section 151 CPC, whereby the application seeking temporary injunction came to be dismissed and the *ex parte* order earlier granted was vacated.

BRIEF FACTS

2. The family genealogical tree is extracted as below for any reference.



FAMILY TREE



3. The case of the plaintiff is that Late Muthaiah was the propositus of the Hindu joint family consisting of the plaintiffs and defendants 1 to 28. The suit schedule property bearing Sy. No. 171 measuring 8 acres 8 guntas is asserted to be the joint family property. It is contended that there is no partition among the family members and all were in joint possession and enjoyment. It is further alleged that taking advantage of the revenue entries, defendants 1 to 28 have executed several sale deeds, gift deeds and partition deeds in favour of defendants 29 to 41 without consent of the



plaintiffs, which are not binding on their share. Apprehending further alienation, the plaintiffs instituted the suit for partition and separate possession and sought temporary injunction.

4. Learned counsel appearing for the appellants submits that,

- (i) Suit schedule property is the joint family property and there is no prior partition
- (ii) In a partition suit, every coparcener is deemed to be in joint possession.
- (iii) Alienation during pendency would cause irreparable injury and multiplicity of proceedings.
- (iv) The Trial Court failed to properly apply the principles of *prima facie case*, *balance of convenience* and *irreparable injury*.
- (v) The Trial Court erred in placing reliance on the case of defendant No. 30, a subsequent purchaser, whose rights are subject to the doctrine of *lis pendens*.



(vi) The impugned order is arbitrary, contrary to settled principles governed by injunction in partition suits.

5. Per contra, the learned counsel appearing for the caveator-respondent No. 30 submits that,

(i) the property is not the joint family property of Muthaiah. The property was purchased by Gundappa, Dodda Muthappa and Chikka Muthappa, the other three sons of Muthaiah and the plaintiffs claim through Ramaiah, who is not a party to the purchase made in the year 1948.

(ii) There was an earlier partition in the year 1942 and subsequent partition in the year 1989.

(iii) The revenue records and prior transactions establish separate possession and enjoyment, that the plaintiffs have not made out a *prima facie* case and the Trial Court has rightly rejected the application.



6. This Court has carefully considered the submission and perused the material on record. The point that arises for consideration is,

whether the Trial Court was justified in rejecting I.A. No. II and refusing to grant temporary injunction in facts and circumstances of this case?

7. At the outset, it is to be noted that the present appeal arises against an order passed on I.A No. II under Order XXXIX Rule 1 and 2 CPC, where the Trial Court refused to grant temporary injunction. The scope of interference by the Appellate Court in such matters is no longer *res integra*. The Apex Court in the case of ***Wander Limited and Another vs. Antox India Private Limited***¹ at para No. 14 has held as under :

"14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court

¹ 1990 (Supp) SCC 727



of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in Printers (Mysore) Private Ltd. v. Pothan Joseph: (SCR 721)

"... These principles are well established, but as has been observed by Viscount Simon in Charles Osenton & Co. v. Jhanaton '...the law as to the reversal by a court of appeal of an order made by a judge below in the



exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case'."

The appellate judgment does not seem to defer to this principle."

8. The Apex Court held that an appeal against the exercise of discretion is an appeal on principle, and the Appellate Court would not substitute its own discretion for that of the Trial Court unless discretion exercised is shown to be arbitrary, capricious or perverse or where the Trial Court has ignored settled principles governing grant of or refusal of injunction. In the present case, the Trial Court upon consideration of the pleadings and documents held that the plaintiffs have failed to establish a *prima facie* case, as the documents produced by the defendant No.30 indicates that the suit schedule property was not originally owned by Muthaiah but was purchased by his other three sons who are Gundappa, Dodda Muthappa and Chikka Muthappa and not by the father of the plaintiffs, i.e., Ramaiah. The Trial Court further observed that the material on record indicates that



the plaintiffs claim is doubtful and in the absence of *prima facie* case, the question of balance of convenience and irreparable injury would not arise and rejected the application for temporary injunction and *ex parte* order stood vacated.

9. From the material on record, it is reflected that there is a serious doubt on the claim of the plaintiffs that the property continues to be a joint family property. At the stage when title itself is under serious cloud, the plaintiffs cannot be said to have established a *prima facie* case warranting protection by way of injunction. In the absence of *prima facie* case, the Trial Court was justified in not examining the *balance of convenience* and *irreparable injury*. The contention that the property is liable to be protected merely because the suit is one for partition and separate possession cannot be accepted in the present facts and circumstances where foundational facts regarding joint family status was disputed and not supported by any *prima facie* material. This Court sitting in appeal does not find that the discretion exercised by the Trial Court suffers from arbitrariness or



perversity or is it shown that the Trial Court has ignored any settled principles governing grant of temporary injunction. Merely because an another view is possible this Court will not be justified in interfering with the well reasoned order of the Trial Court and accordingly the point framed for consideration is answered and this Court pass the following :

ORDER

- (i) The Miscellaneous First Appeal is hereby ***dismissed.***
- (ii) The impugned order passed by the Trial Court on I.A No. II is hereby ***confirmed.***

Sd/-

JUSTICE K.S. HEMALEKHA