



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 1937 OF 2026 (CPC)

BETWEEN:

1. SRI. ARUN KUMAR
S/O LATE SRINIVAS
AGED ABOUT 23 YEARS
2. SRI JAYARAM
S/O LATE SRINIVAS
AGED ABOUT 21 YEARS
3. SRI. RAKESH
S/O LATE SRINIVAS
AGED ABOUT 19 YEARS

ALL ARE R/AT. GOLAHALLI VILLAGE,
JIGANI HOBLI, ANEKAL TALUK,
BENGALURU.

...APPELLANTS

(BY SRI. SHANMUGAM YADAV M.,ADVOCATE)

AND:

1. SMT. MUNIYAMMA
W/O. LATE DODDAMUNISHAMY,
AGED ABOUT 85 YEARS
2. SMT. MUNIYAMMA
D/O. LATE KAKAPPA
AGED ABOUT 90 YEARS
3. SMT. PILLAMMA
D/O. LATE CHIKKAMUNISHAMY,





AGED ABOUT 34 YEARS

4. SMT. MUNITHAYAMMA
D/O. LATE NARASHAIMAIAH,
AGED ABOUT 65 YEARS
5. SRI. SRINIVAS @ SAMPANGI
S/O. LATE NARASHAIMAIAH,
AGED ABOUT 50 YEARS
6. SMT. ANNAMMA
D/O. LATE JAYAMMA,
AGED ABOUT 45 YEARS
7. SMT. RATHANAMMA
D/O. LATE JAYAMMA,
AGED ABOUT 36 YEARS,
8. SMT. MUNIYAMMA
D/O. LATE JAYAMMA,
AGED ABOUT 35 YEARS,
9. SRI. MUNIRAJU
S/O. LATE JAYAMMA,
AGED ABOUT 32 YEARS,
10. SMT. GOWRAMMA
W/O. LATE SAMPANGI
AGED ABOUT 50 YEARS,
11. SMT. YELLAMMA
D/O. LATE SAMPANGI
AGED ABOUT 32 YEARS
12. SRI. MUNIRAJU
S/O. LATE SAMPANGI
AGED ABOUT 30 YEARS
13. SMT. RADHA
D/O. LATE PILLAMMA



AGED ABOUT 28 YEARS

14. SMT. UMA
D/O. LATE PILLAMMA
AGED ABOUT 26 YEARS

15. SRI. MANJUNATH
S/O. LATE PILLAMMA
AGED ABOUT 25 YEARS

RESPONDENT NO.1 TO 15 ARE
R/AT. GOLAHALLI VILLAGE,
JIGANI HOBLI, ANEKAL TALUK,
BENGALURU.

16. MR.KHALEEL
S/O. MR.NOORSAB
AGED ABOUT 59 YEARS,
R/AT NO.5/84, 8TH MAIN ROAD,
JAYANAGAR BENGALURU - 560 011.

17. MISS. LINY ROY
W/O. MR.C.J.ROY,
AGED ABOUT 42 YEARS,
R/AT NO.110, 1ST MAIN ROAD,
7TH BLOCK, KORAMANGALA,
BENGALURU - 560 095.

...RESPONDENTS

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DT. 28.11.2025 PASSED ON IA NO.I IN
O.S.NO.488/2016 ON THE FILE OF THE PRL SENIOR CIVIL
JUDGE AND JMFC, ANEKAL, REJECTING THE IA.NO.1 FILED
U/O.39 RULE 1 AND 2 R/W SEC.151 OF CPC.

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



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

ORAL JUDGMENT

This Miscellaneous First Appeal is preferred by the plaintiffs assailing the order dated 28.11.2025 passed on I.A.No.1 in O.S.No.488/2016 on the file of the Principal Senior Civil Judge and J.M.F.C., Anekal (for short 'the trial Court'), whereby the application i.e., I.A.No.1 filed by the plaintiffs under Order XXXIX Rules 1 and 2 of CPC seeking an order of temporary injunction, restraining defendant No.17 from alienating or creating any charge over the suit property came to be rejected.

2. Heard the learned counsel appearing for the appellants and perused the materials placed on record.

3. The suit is one for partition and separate possession. Along with the suit, the plaintiffs filed I.A.No.1 under Order XXXIX Rules 1 and 2 of the CPC seeking an order of temporary injunction restraining



defendant No.17 from alienating or creating charge over the suit property.

4. Defendant No.17 filed objections.

5. The trial Court upon consideration of the entire materials on record, framed the points for consideration which reads as follows:

"(i) Whether the plaintiffs have made out prima-facie case to grant temporary injunction as sought in IA No.1?

(ii) In whose favour the balance of convenience lies?

(iii) Who will suffer irreparable injury, if temporary injunction is granted or refused?"

6. Learned counsel for the appellant submits that the suit schedule property originally belonged to the joint family. The suit property was cultivated by the predecessors and re-granted in the name of Dodda



Munishamy and the plaintiffs claim joint possession and enjoyment of the suit schedule property.

7. The trial Court observed that the plaintiffs have failed to establish a *prima-facie* case, balance of convenience or any injury that would be caused, if the injunction is not granted. The trial Court observed that the registered sale deed of the year 2000 *prima-facie* show transfer of possession to the purchasers. The suit is filed after a delay of about 15 years from the date of alienation. Earlier suits filed by the family members were dismissed for non-prosecution indicating lack of diligence and the trial Court at paragraph Nos.12 and 13 has observed as under:

"12. In the light of the arguments advanced by both side, I have perused the entire material on record. The plaintiffs are claiming that the suit schedule property was cultivated by the original prepositor Kakappa and subsequently it was re-granted in the name of Doddamunishamy on behalf of the joint family. Admittedly after the death of Doddamunishamy, Chikkamunishamy, Narasimhaiah,



their legal heirs have alienated the suit schedule property in favour of the defendant Nos.16 & 17 under registered sale deeds dated 25.09.2000. The recitals of the said sale deed, prima-facie shows that the possession of the has been handed over in favour of the purchasers. The plaintiffs have not placed any prima-facie materials to show that hey are in joint possession and enjoyment of the suit schedule property.

13. The defendants have produced copy of order sheet and plaint in OS No.293/2008. The said suit is filed by Smt. Muniyamma i.e., defendant No.1 herein against her family members. In the said suit, the father of plaintiffs namely Srinivas is arrived as defendant No.8. The order sheet in OS No.293/2008 shows that the said suit was not prosecuted and it was dismissed for non-prosecution. The defendants have produced copy of order sheet and plaint in OS No.559/2010. The said suit is filed by Smt. Muniyamma W/o Doddamunishamy i.e., defendant No.1 herein. In the said suit, the plaintiff No.1 Sri. Arun Kumar is arrived as defendant No.5. The said suit also dismissed for non-prosecution. From the sequence of events, inference could be drawn that the plaintiffs and their family members are in a habit of filing the suits one after another, however they are not prosecuting the suit in an effective manner.



Therefore earlier two suits were dismissed for non-prosecution. The learned counsel for defendant No.17 argued that the above suit is filed only with an intention to grab money from the purchasers. The alienation had taken place in the year 2000. The suit is filed after lapse of 15 years. There is some force in the arguments advanced by the learned counsel for defendants. The plaintiffs have not placed any prima-facie material to show that they are in joint possession and enjoyment of the suit schedule property. The plaintiffs have failed to make out prima-facie of case, the balance of convenience is in favour of the defendants and the defendants will suffer irreparable injury if temporary injunction is granted in favour of the plaintiff. Accordingly point No.1 is answered in the negative, point Nos.2 & 3 are answered accordingly."

8. Accordingly, I.A.No.1 was rejected.

9. Upon perusal of the impugned order and material on record, this Court is of the considered view that the trial Court has properly applied the settled principles governing grant of temporary injunction and there is no perversity, illegality or arbitrariness warranting



interference by this Court. Accordingly, this Court pass the following:

ORDER

- i) The Miscellaneous First Appeal is hereby ***dismissed.***
- ii) The impugned order dated 28.11.2025 passed on I.A.No.1 in O.S.No.488/2016 on the file of the Principal Senior Civil Judge and J.M.F.C., is hereby ***confirmed.***
- iii) It is needless to say that since the suit is of the year 2016, the trial Court shall dispose of the suit as expeditiously as possible.
- iv) Any observations or findings made by this Court or by the trial Court is limited to the extent of consideration of the application and shall not influence the trial Court in considering the suit independently on its merits.

Sd/-

JUSTICE K.S. HEMALEKHA