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**IN THE COURT OF XLII ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE, BENGALURU (CCH-43)**

- : PRESENT :-

Chinnannavar Rajesh Sadashiv,
XLII Addl. City Civil & Sessions Judge,
Bengaluru City.

Dated this 15th Day of November, 2025.

O.S.No.3102/2025

Plaintiffs :

Smt.Malvikaa Solanki @ Manju
Kumari.N. & another.

[By Sri.C.V.Sudhindra, Advocate]

/ VERSUS /

Defendants :

Smt.Nagarathanamma & others.

[sri.Manu P.Kumar, Advocate for D.1, 4 and 5
Sri.Shashank Sridhar, Advocate for D.2
Sri.Manasa B. Rao, Advocate for D.3
Sri.N.Sridhar, Advocate for D.6 & 7
Sri.Darshan Gowda, Advocate for D.9
Defendant No.8 – Ex-parte]

PARTIES IN I.A.NO.II

Applicants / Plaintiffs :

Smt. Malvikaa Solanki @ Manju
Kumari.N. & another.

/ VERSUS /

Opponents / Defendants :

Smt.Nagarathanamma & others.

* * *

ORDERS ON I.A.NO.II

This suit is filed by the plaintiffs against the defendants for the relief of partition and separate possession with respect to Item Nos.1 to 223, which are more specifically described in the plaint schedule. I.A.No.II is filed by the plaintiffs under Order XXXIX Rules 1 and 2 r/w/s 151 of C.P.C. seeking temporary injunction against the defendants No.1, 2, 4 to 9 from creating charge, encumbrance or otherwise alienating the suit schedule properties Item Nos.1 to 223, pending disposal of the suit.

2. In support of the application the plaintiff No.2 sworn affidavit by reiterating the contents of the plaint and

sworn that the contents of the plaint shall be treated as part and parcel of the application. She has sworn that, original propositus of the family was one Puttamadegowda. He died on 28.7.2024 leaving behind him his wife – defendant No.1 – Smt.Nagarathnamma, sons by names, C.P.Yogeeshwara (defendant No.2), C.P.Gangadhar (defendant No.6), C.P.Rajesh (defendant No.7) and daughters by names, C.P.Pushpa (defendant No.8), C.P.Bhagyalakshmi (defendant No.9). Plaintiff No.1 is the wife of C.P.Yogeeshwara, plaintiff No.2 is their daughter and defendant No.3 is son of C.P.Yogeeshwara. Defendant No.4 – Smt. P.V.Sheela is the second wife of defendant No.2 and defendant No.5 is the son of defendant No.2 born through defendant No.4.

3. She further sworn that, the original propositus Puttamadegowda was school teacher in Chakkere Village. His salary was the only income to maintain his five children. His wife was house-maker. So, there was a compelling

need for the growing family to find additional source of income. Plaintiff No.1 married defendant No.2 and she came from Marwadi family. All the children of Puttamadegowda were used to supply tender coconuts to the growing Bengaluru. After entering of the plaintiff No.1 to their family, plaintiff No.1 by using her skill of business started real estate business. They started a company by name M/s.Mega City Developers and Builders Pvt. Ltd., They have acquired huge lands from the farmers in the name of defendants No.2 to 7 in individual capacity as they were farmers and their only income was agriculture. It is further case of the plaintiffs that, the said M/s.Mega City Developers and Builders Pvt. Ltd., had partners by name Arun Charanthimutt. The husband of defendant No.8 – P.Mahadevaiah was also actively participating in the said real estate business. Plaintiff No.1 supported their company financially by selling her valuable jewelry, spent her entire savings and supported the said company

through members of Marwadi community. Because of her skill and investment, the company as well as defendants No.2 and his brothers have grown in the business. It is further case of the plaintiffs that, defendant No.2 has become very greedy person. He has fallen to bad company and he removed the partner Arun Charanthimutt and other directors of the company and also removed plaintiff No.1 and he became the Chairman and Managing Director of the said company. It is also the case of the plaintiffs that, defendant No.2 used to ill-treat his wife. So, during 2004 she came out of the house with her children and obtained divorce from her husband. She was deceived to obtain divorce from defendant No. 2 and defendant No.2 married defendant No.4 – second wife and out of the said wedlock, defendant No.5 was born to them. It is also the case of the plaintiffs that, though plaintiffs came out of the family, but the contributions towards financial, material and corporeal affairs of the company were continued with an

understanding that the same would be addressed later with the resolution of certain related and other issues, and thus actual partition was postponed. Defendant No.2 is the Kartha of the undivided family and he is bound to render the true accounts of the family. The suit schedule Item Nos.1 to 223 are the ancestral and joint family properties of plaintiffs. Defendants No.4 and 5 have not at all contributed anything towards the business, but defendant No.2 deceitfully transferred the ancestral and joint family properties in their names. All the suit properties have gained identity of ancestral properties. It is also the case of the plaintiffs that, they have questioned the transfer of properties in favour of defendants No.4 and 5 and demanded their share, but it was refused by defendant No.2. Plaintiff No.1 is joint contributor and is entitled for 1/7th share in both ancestral and joint family properties. Plaintiff No.2 is entitled for 1/4th share in 1/7th share of defendant No.2.

4. It is further case of the plaintiffs that, defendant No.2 had filed O.S.No.6836/2024 against the present plaintiffs and defendant No.3 for the relief of partition and separate possession with respect to one house. The said suit was filed in order to ruin the future of plaintiff No.2. In the said suit, defendant No.2 has admitted the existence of joint family and existence of undivided joint family properties. Defendant No.2 could not get interim order in the said suit and hence, got filed another suit bearing O.S.No. 7145/2024 impersonating defendant No.3 , seeking cancellation of gift deed executed by defendant No.3 in favour of both the plaintiffs. In fact, the said suit was never filed by defendant No.3. Hence, he has filed complaint before BAR council. It is further case of the plaintiff that, defendants No.2 and 4 had filed O.S.No.26115/2024 and obtained temporary injunction against the plaintiffs and defendant No.3 from publishing the fraudulent acts and crimes committed by defendants No.2 and 4 by distorting

the facts with false claims. They had also filed Writ Petition No. 31360/2024 and 29527/2024. So, plaintiffs have contended that the suit schedule properties are joint family and ancestral properties and they are in joint and constructive possession of the suit properties and in order to defeat their rights, defendants No.1, 2 and 4 to 9 are trying to alienate the suit properties. If they are not restrained from their acts by granting temporary injunction, then the rights of the plaintiffs will be defeated.

5. Plaintiff No.2 also sworn stating that plaintiffs have got prima-facie case, the balance of convenience leans in their favour and if TI is refused, they will be put to hardship. So, she prayed to allow I.A.No.II and grant temporary injunction.

6. On service of summons defendants No.1, 4 and 5 appeared through their Advocate and filed objection to I.A.No.II.

7. Defendant No.2 has appeared through his Advocate and filed objection. Defendants No.6 and 7 appeared through their Advocate and filed objection to I.A.No.II. Defendant No.8 though served, remained ex-parte. Defendant No.9 also appeared through her Advocate and filed objection separately.

8. Defendant No.2 has filed objection and produced number of documents. In the said objection he has admitted the relationship with plaintiffs. He has admitted that, plaintiff No.2 is his daughter and defendant No.3 is his son born through first plaintiff. But, he denied that plaintiff No.1 is still has the status of his wife. He has contended that, his wife had filed M.C.No.1473/2003 seeking divorce. He was ex-parte in the said petition and said petition was allowed on 6.8.2004. So, plaintiff No.1 is divorced wife. Hence, she has no right to file this suit by joining with her daughter. He also contended that plaintiff No.1 had also filed G&WC No.131/2003 and it was also allowed on

30.1.2004. So, plaintiff No.2 was given to the custody of mother. So, she also cannot file this suit. He denied that suit properties are ancestral and joint family properties. So, he denied the claim of the plaintiffs over these properties. He has specifically contended that the suit properties are his self-acquired properties and during his lifetime plaintiff No.2 cannot file a suit for partition and separate possession as it is barred under Section 8 of the Hindu Succession Act.

9. He has specifically contended that all the suit schedule properties are not the properties belonging to his father Puttamadegowda. Hence, some of the properties are self-acquired properties of defendant No.1, defendant No.2, defendant No.4 and defendant No.5 and defendants No.6 to 9. Hence, plaintiffs cannot claim share in these suit properties.

10. He also contended that some suit properties belongs to M/s.Mega City Developers and Builders Pvt. Ltd.,

and plaintiffs cannot file this suit with respect to the said properties. Some properties are belonging to third parties and they are not parties to this suit. Hence, this suit is not at all maintainable. He has specifically contended that there is no specific pleading in the plaint as to which property is acquired in which mode and plaintiffs have not explained the nature of each of the properties. Hence, suit for partition itself is not at all maintainable. He has also contended that his father was school teacher and drawing small income and as per the case of the plaintiffs themselves, the said income was spent for maintenance of the family and hence, the maximum properties are self-acquired properties of defendant No.2 and during his lifetime plaintiffs cannot claim partition. He is ceased to be the Director of M/s.Mega City Developers and Builders Pvt. Ltd., and hence, he cannot claim properties of said developers and hence, plaintiffs also cannot claim share in the said properties. He has specifically contended that in

C.P.No.2/2014 the order was passed by NCLT dated 13.11.2019 and in the said order, the present defendant No.2, defendant No.6, husband of defendant No.8 namely, P.Mahadevaiah and defendant No.7 are ceases to be the Directors of the said M/s.Mega City Developers and Builders Pvt. Ltd., The present plaintiff No.1 had filed C.A.No.9/2021 and it was disposed by reserving liberty to the applicant to file necessary application in accordance with law.

11. In para No.28 of the statement of objections he has specifically described the nature of each item of the suit properties as under :

“Item No.1 is concerned, it was purchased by second Defendant during the course of conducting auction by Indian Bank, K.G. Road Branch, Bengaluru, and subsequently, after payment of entire amounts to the 2nd Defendant, the Indian Bank, K.G. Road Branch, Bengaluru, has issued sale certificate in favour of 2nd Defendant on 14.09.2006. A perusal of this document makes it clear that the 2nd Defendant

participated in the auction conducted by Indian Bank, K.G. Road, Bengaluru and his offer was highest, hence the sale was confirmed in his favour. This is self-acquired property of 2nd Defendant and during the life time of 2nd Defendant, neither the Plaintiff nor any other person will get any nature of right to claim any relief.

Item No.2, it was purchased by one Sri D.U. Chengappa from K.S. Mohammed Masood under sale deed dated 25.01.2001. This property was subsequently transferred by Sri. DU Chengappa vide gift deed to the name of 4th Defendant Smt.Sheela and her mother Smt.Amrutha Lakshmi and both of them are the owners of Item No.2 of the suit schedule property. This property neither belongs to Plaintiffs or Defendant No.2. As such this property is not available for partition.

Item No.3 is concerned, it was originally belonging to Smt.Vasanth Nagaraj, who purchased under a sale deed dated 08.03.2013 from Sri K.V.Nageswar Rao. Thereafter, Smt.Vasanth Nagaraj sold the property in favour of Defendants No.2 and 4 under a sale deed dated 05.02.2020. A perusal of payment of sale consideration to Smt. Vasanth Nagaraj are shown clearly in page 9 of the sale deed. All these amounts were paid by Defendants No.1 and 2 and they have also taken some financial assistance from Euro Finance Corporation and

this property is exclusively belonging to Defendants No.2 and 4 and it cannot be taken for partition during the lifetime of Defendants No.2 and 4. Thereafter, 2nd Defendant executed a Gift Deed in so far as property in favour of his wife, the Defendant No.4 under a Gift Deed dated 02.09.2021 and by virtue of this Gift Deed and the sale deed dated 05.0.2020. Item No.3 exclusively belongs to Defendant No.4 and no other person has got any nature of right over the suit schedule property. This aspect makes it clear that the Plaintiff has suppressed this property as joint family property which is in-correct. For the aforesaid reasons, this property is not available for partition and Plaintiff is not entitled for any relief.

Item No.4 is concerned, it was belonging to Bengaluru Development Authority and it was sold in favour of Sri Channappa and Nanjundeswar under a sale deed dated 17.10.2002. Thereafter, Sri. Chennappa and Sri Nanjindeshwara sold the property in favour of C.R.Aswin Kumar and Sheela P.V under the sale deed dated 24.10.2015. Thereafter, Sri Aswin Kumar released his share of the property under a release deed dated 01.09.2006 in favour of the 4th Defendant and this property is not available for partition. This property exclusively belongs to 4th defendant.

Item No.5 is concerned, this property was originally belonging to Bengaluru Development

Authority and the same was sold in favour of Sri.S.M.Shivakumar under a sale deed dated 03.09.2012. Thereafter, Sri SM.Shivakumar sold the property in favour of 4th Defendant under a sale deed dated 03.10.2012. This property is also not available for partition.

Item No.6 is concerned, this property was belonging to Bengaluru Development Authority and the Bengaluru Development Authority has sold the Item No.6 of the property in favour of 2nd Defendant under a sale deed dated 11.03.2011. A perusal of page No.2 of the sale consideration refers payment of sale consideration to the Bengaluru Development Authority. In pursuance of the sale deed, the 2nd Defendant, acquired his right over the Item No.6 of the suit schedule property and subsequently he gifted the property in favour of 4th Defendant under a gift deed dated 19.03.2024 and this property is not available for partition.

Item No.7 is concerned, this property was belonging to Sri S.M. Gokul s/o Sri Nandagopal and he sold the Item No.7 of the property in favour of M/s.Fashion Forum (India Private Limited represented by Defendant No.2 under a sale deed dated 01.12.2008. It is not available for partition.

Item No.9 is concerned, this property was purchased by 2nd Defendant under two sale

deeds dated 27.06.2005 and 15.12.2006 measuring 25628.75 Sq.ft and 25628.75 Sq. Ft these properties are the self acquired property of the 2nd Defendant and it is not available for partition and neither the Plaintiffs nor any other persons would get any right with respect to this property.

Item No.12 is concerned, it was purchased by the Second Defendant under a sale deed dated 18.09.1995 from Smt. Eeramma and Others and it is not available for partition. The mutation entries in respect of Item No.12 was effected in favour of 2nd Defendant by virtue of mutation entries, namely, M.R. No.47/1995-96 and it is not available for partition.

Item No.13 is concerned, it belongs to 2nd Defendant and one Mr. Mahadevaiah, the same was partitioned and the 2nd Defendant is the owner of 27.8 guntas and it was fallen to his share under a partition deed dated 28.07.2023 and accordingly mutation stands in the name of 2nd Defendant as per M.R. No.15/2023-24. In so far as the remaining six guntas, it belongs to Sri. Mahadevaiah and both these extents are being utilized for formation of sites by Mega City Developers and this property is not available for partition as on the date of this Suit. This property belongs to Mega City Developers and admittedly they are not before the Court.

Item No.14 is concerned, Sri Mahadevaiah purchased item No. 14 of schedule property from Smt. Jayalakshmamma under a sale deed dated 18.10.1995 and this Sy. No.6/3 stands in the name of Sri Mahadevaiah and it was converted for residential use and the same is utilized for formation of sites by Mega City Developers and this property belongs to Mega City Developers and it is not available for partition.

Item No.15 is concerned, it was belonging to Syndicate Bank Retired Employees Welfare Association and it was sold in favour of 2nd Defendant under a sale deed dated 23.11.2023. This property was purchased by 2nd Defendant and with regard to payment of sale consideration, it is shown in the page No.9 of the sale deed. It is a self-acquired property of 2nd Defendant and it is not available for partition at the hands of Plaintiff or any other persons.

Item No.16 is concerned, this property was purchased by Mega City Developers under a sale deed dated 25.02.1997 from Sri.Venkataramanappa and his children. This property does not belong to Plaintiffs or other Defendants and Mega City Developers is not party to these proceedings. So, this item cannot be dealt with at the hands of Plaintiffs.

Item No.17 is concerned, the property belongs to the Defendant No.1 and 3. Defendant

No.1 has purchased the extent of 10 guntas under a sale deed dated 15.09.1995 from one Eerudaiha and the Defendant No.3 has purchased an extent of 1 acre 17 guntas from Syndicate Bank Retired Employees Welfare Association under a sale deed dated 19.08.2021. It is the self-acquired property of the 1st and 3rd Defendants and is not available for partition.

Item Nos. 18, 20 to 26, 28 and 29 are concerned, originally they belonged to 2nd Defendant. Thereafter, he transferred his rights in favour of Mega City Developers. Mega City Developers have formed residential sites and has sold to its members in various sale deeds. Neither, the transfer to the Mega City Developers or formation of sites by Mega City Developers or sale deed executed by Mega City Developers to its members was not questioned by anybody and admittedly, the purchasers who purchased the property are not party before this Hon'ble Court and this property is not available in the form described in the Plaint and this property cannot be identified in the manner specified in the schedule to the Plaint. As such, this property, neither belongs to any of the Defendants herein and none of the Plaintiffs or Defendants possess any nature of right over these items and the suit in respect of these items has to be dismissed.

Item No.19 is concerned, it belongs to one Venkatappa under a sale deed dated 02.08.1993

and it does not belong to any of the family members and hence it is not available for partition.

Item No. 27 is concerned, it was purchased by Defendant No.1 under a sale deed dated 24.07.2007 and it is the self-acquired property of Defendant No.1 and it is not available for partition.

Item No.30 is concerned, it was purchased by the 2nd Defendant under sale deed dated 30.12.2003. It is the self acquired property of Defendant No.2 and it is not available for partition.

Item No.31 is concerned, it belongs to Smt.Nagarathnamma, the 1st Defendant, who purchased the property under a sale deed dated 05.07.2006 and this property was self-acquired property of 1st Defendant and this is not available for partition by any party.

Item No.32 is concerned, it belongs to 2nd Defendant and all the Revenue Records were transferred in the name of 2nd Defendant by virtue of the order passed under M.R.No. 47/1995-96 and this is not available for partition by any party as it is self-acquired property of 2nd Defendant.

Item No.33 and 34 are concerned, it belongs to Mega City Developers and Builders Limited who purchased the same under a sale deed dated 11.12.2006 and 05.07.2006 and these are not available for partition.

Item No.35 is concerned, it belongs to 2nd Defendant under sale deed dated 06.06.1995 and all the Revenue Records are transferred in his name by virtue of M.R. No.8/1995-96. This property was purchased by 2nd Defendant for the benefit of Mega City Developers with an intention to form sites. This aspect makes it clear that this property exclusively belongs to 2nd Defendant and he has got every right to deal with the same in any manner he wishes.

Item No.36, 37, 38 it was purchased by 2nd Defendant under a sale deed dated 17.08.1995, 17.08.1995, 01.08.1995. All the Revenue Records are transferred in his name and is paying land revenue as and when falls due. Similarly, the item No.36, 37 and 38 were acquired by 2nd Defendant and the same was utilized by Mega City Developers and after formation of sites and after taking necessary permission from BMRDA/ BMICPA, it was sold in favour of various purchasers, namely, the members of Mega City Developers. These properties are not within the family of 2nd Defendant and none of the parties herein possess any nature of right over these

items and these properties are not available for partition.

Item No.39 is concerned, it is belonging to Defendant No.2 under the Sale Deed dated 01.08.1995 All the Revenue Records are transferred in his name and is paying land revenue as and when falls due and it is not available for partition.

Item No.40 is concerned, it was belonging to Sri Mahadevaiah. After the demise of Sri. Mahadevaiah, the Revenue records were transferred in the name of his Legal Representatives.

Item No.41 is concerned, it was purchased by 2nd Defendant under a sale deed dated 06.07.1995 from Sri Putta Revaiah and others. This property being self-acquired property of 2nd Defendant, it is not available for partition and none of the Plaintiffs got right over this property for partition.

Item No.42 is concerned, it belongs to Sri Puttamadegowda and in this item, none of the Plaintiffs got right over the item No.42 of the said property. Admittedly, there is no partition in respect of item No.42 is concerned and no property is allotted to the share of 2nd Defendant. As such, when there is no partition in respect of Item No.42 is concerned, the question of getting

any exclusive right by the 2nd Defendant in this item will not arise, consequently, Plaintiff cannot derive any nature of right over the Item No. 42 of the suit schedule property and they cannot make suit during the lifetime of 2nd Defendant in view of legal bar under Section 8 of the Hindu Succession Act.

Item No.43 and 46 are concerned, they were belonging to Defendant No.2 according to the sale deeds dated 23.11.2023 subsequently they were gifted vide the gift deeds dated 11.01.2024 to Defendant No.5. All the Revenue records are transferred in the name of 5th Defendant and the 5th Defendant is paying taxes to the Government and as such these properties are not available for partition.

Item No.47, 51, 52, 53 and 56 are concerned, the 2nd Defendant entered into a contract for purchase of the property with the owners of the said item. Since, the said owners refused to execute the sale deed, the 2nd Defendant filed a Suit for Specific Performance in O.S.No. 2528/2006 and as per the virtue of the Court Decree in Ex No.65/2012, sale deed was executed in favour of 2nd Defendant represented by the Special Power of Attorney Holder. Hence, the 2nd Defendant is the absolute owner of the above said items. However, the RTC of the above said items are reflecting the name of Defendant No.6

who acted as a SPA holder of Defendant No.2 and this is not available for partition by any party.

Item No.48, 49 and 50 are concerned, originally it was belonging to Sri Muniraju and others and they sold it in favour of 2nd Defendant under a sale deed dated 17.11.2020. This is a self-acquired property of 2nd Defendant and this is not available for partition and none of the other parties in this suit have acquired any nature of right over the property

Item No.51 is concerned, it belongs to Sri.C.P. Gangadhar, the 6th Defendant and none of the Plaintiffs will get any nature of right over this property.

Item No.54 is concerned, it was purchase by the Managing Director of Mega City Developers under a sale deed dated 25.05.1996 and this is not available for partition.

Item No.55 are concerned, the Plaint schedule property as indicated in respect of item No.55 is concerned is not belonging to any of the family members and the said property cannot be taken into consideration. A perusal of the RTC produced along with the Plaint document indicates that item No.55 is belonging to the defendants, a perusal of the RTC wherein the said property is standing in the name of Maddaiah and the said property comes under Bidadi Hobli

Manchnayakanahalli village and the said item is utilized towards Megacity Developers.

Item Nos. 57 and 58 are concerned, it was earlier belonging to Sri.Mahadevaiah, subsequently, the same property was utilized by Mega City Developers by Sri Mahadevaiah and afterwards sites are formed in the said property and this property is not available for partition.

Item No.59 is concerned the property was purchased by Mega City Developers represented by Defendant No.2 under sale deed dated 28.03.1996. This property belongs to Mega City Developers and is not available for partition

Item No. 60 is concerned the same was belonging to Mega City Developers and the property is situated not at Hampura, it is situated at K.R.Pura. This property was purchased by Mega City Developers under a sale deed dated 28.03.1996 and this property was acquired for and on behalf of the Mega City Developers and the same is not available for partition and none of the Plaintiffs got any right over this property for partition.

Item No.61 is concerned, the same was belonging to Defendant No.4. Subsequently it is informed that the property was developed by Megacity Developers and sites are formed for the benefit of its members and is not available for partition.

Item No.62 is concerned, originally it was belonging to Smt. Giryamma and she sold the same in favour of 4th Defendant under a sale deed dated 04.04.2007 and this property does not belong to 2nd Defendant or Plaintiffs and this being the self-acquired property of 4th Defendant, it is not available for partition at the hands of the Plaintiffs.

Item Nos.63 and 64 are concerned, these are belonging to Mega City Developers and the same are situated at Bangalore South Taluk, Kengeri Hobli, Hampapura, Krishna Rajapura Village This property was purchased by Mega City Developers under a sale deed dated 28.03.1996 and this property was acquired for and on behalf of the Mega City Developers and the same is not available for partition and none of the Plaintiffs got any right over this property for partition.

Item No.65 is concerned, it belongs to 6th Defendant who purchased it under a sale deed dated 05.08.2005 and this is exclusive property of 6th Defendant, neither the Plaintiffs nor the 2nd Defendant acquire any nature of right over this property and this is not available for partition.

Item No.66, 67 and 68 are concerned, it was purchased by Sri.Mahadevaiah for the benefit of Mega City Developers under a sale deed dated 15.09.2005 and the said property is utilized by

Mega City Developers and sites are formed for the benefit of its members.

Item No.69, 70, 71 and 72 are concerned, these properties were purchased by 2nd Defendant on behalf of Mega City Developers under the sale deeds dated 28.03.1996 and 25.05.1996. These properties belong to Mega City Developers and they are not available for partition.

Item No.73 is concerned, it was purchased by the 8th Defendant and subsequently, she sold the same in favour of her purchasers and this property is not available for partition.

Item No.74 is concerned, it belongs to 9th Defendant and the same is not available for partition at the hands of the other parties.

Item No.75, 76 and 77 are concerned, it belongs to 4th Defendant and she purchased the property for valuation sale consideration and it is not available for partition.

Item No.78 is concerned, it belongs to Defendant No.9 who purchased the property under a sale deed dated 19.09.2006 and it is not available for partition at the hands of Plaintiffs and the 2nd Defendant.

Item No.79 is concerned, this property belongs to Defendant No.4, who purchased it under the sale deed dated 18.03.2008.

Subsequently, the same vendor has sold for the second time in favour of other. In this, property none of the other parties have any right of partition

Item No.80 is concerned, it was belonging to 2nd Defendant and all the Revenue Records stands in the name of 2nd Defendant as per the orders passed in M.R. No. 15/2006-2007 and it is not available for partition by the Plaintiffs as it is a self-acquired property.

Item No.81 is concerned, it was purchased by 2nd Defendant under a sale deed dated 28.06.2007 and it is not available for partition by the Plaintiffs as it is a self-acquired property.

Item No.82, 84 and 85 are concerned, it belongs to 2nd Defendant and it is not available for partition by the Plaintiffs as it is a self-acquired property.

Item No.83 is concerned, the property described in the plaint schedule does not belong to any family members. In respect of the said item wherein we have obtained RTC copy to the said item which reflects in the name of governor of Karnataka commissioner city and the said property is standing in the name of the government. We have produced copy of RTC indicating in the name of the Government.

Item No.86 is concerned, it was purchased by Sri Mahadevaiah vide sale deed dated 11.07.1995 and it is not available for partition.

Item No.87 is concerned, it belongs to 1st Defendant alone and the same was mutated as MR.No.27/1995-1996 and the same it is not available for partition at the hands of Plaintiffs.

Item No.88, 89, 90, 91, 92 are concerned, they are sold by Mega City Developers to M/s.Prestige Bidadi

Item Nos.93, 94, 95, 96, 97, 102 and 107 are concerned, these properties were sold by Defendant No.7 vide sale deed dated 08.06.2010 in favour of M/s. Prestige Bidadi and hence, this property is not available for partition.

Item No.98 is concerned, it belongs to 7th Defendant. Neither the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.99 is concerned, belongs to Sri. Puttamadegowda who purchased it vide sale deed dated 17.02.2006 and all the Revenue Records stands in the name of Sri.Putta-madegowda and it is not available for partition.

Item No.100 is concerned, it was originally belonging to Mega City Developers and the same was sold by them in favour of M/s. Prestige Bidadi and hence, it is not available for partition.

Item No.101 is concerned, it was purchased by Defendant No.7 under a sale deed dated 01.09.1998 and it is his exclusive property and neither Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.103 and 104 are concerned, it was belonging to Mega City Developers, subsequently, it was sold in favour of Prestige Bidadi and it is not available for partition. Item No.105 is concerned, it belongs to 6th Defendant vide sale deed dated 20.09.2005 and neither the Plaintiff nor the other parties have got any right over this property and hence, it is not available for partition. Item No.106 is concerned, it belongs to 7th Defendant and neither the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.108, 109 and 111 (Old Sy.No.153/3 and new Sy.No.153/5) are concerned, they originally belonged to defendant no.2 under a sale deed dated 16.08.2008 and the same were gifted to the 4th Defendant under gift deed dated 27.09.2024 and neither of the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.110 and 112 are concerned, they were purchased by the 4th Defendant under the

sale deeds dated 13.09.2019 and 07.11.2019 respectively and all the revenue records are standing in the name of the 4th Defendant and neither the Plaintiffs nor any other persons have got any right over these properties. Hence, it is not available for partition.

Item No.113 is concerned, it was purchased by 4th defendant under a sale deed dated 04.07.2007 and all the Revenue Records are standing in the name of 4th Defendant as per the orders in MR. No.7/2007-2008 and neither the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.114, 115 and 116 are concerned, it originally belongs to 8th Defendant. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No. 117 is concerned, it originally belongs to the 1st defendant. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.118 is concerned, it was purchased by Sri Mahadevaiah on behalf of Mega City Developers and the same was utilized for the benefit of Mega City Developers and Plaintiffs nor any other persons have got any right over this

property and hence, it is not available for partition.

Item No.119 is concerned, it belongs to Defendant No.6 and all the Revenue Records are standing in the name of 6th Defendant as per the orders passed in M.R. No.27/1997-98 and neither the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.120,121,122 and 123 are concerned, it belongs to Mega City Developers. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.124, 125, 126, 127 and 128 are concerned, they belong to Defendant No.6. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.129 is concerned, it stands in the name of Sri Puttamadegowda under sale deed dated 20.02.2006. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.130 is concerned, 2 acres belongs to Defendant No.6 and 23 Guntas belongs to Defendant No.7 as per the revenue Records. Hence, neither the Plaintiffs nor any other

persons have got any right over this property and it is not available for partition.

Item No.131 is concerned, it belongs to 8th Defendant. Hence, neither the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.132 is concerned, it belongs to Defendant No.1 under the Sale Deed dated 08.11.1996. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.133 is concerned, it belongs to Defendant No.8. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.134 is concerned, it belongs to Defendant No.7. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.137 to 139 are concerned, they are purchased by Defendant No.2 under a sale deed dated 17.11.2020. All the Revenue Records stands in the name of 2nd Defendant. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.140 is concerned, it belongs to the 7th Defendant vide sale deed dated 20.02.2021. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.141, 142 and 143 are concerned, they belong to 2nd Defendant, who purchased the same under a sale deed dated 17.11.2020. All the Revenue Records stands in the name of 2nd Defendant. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.145 is concerned, it was purchased by Sri C.R. Krishnappa under a sale deed dated 14.09.1995, hence, this property is not available for partition and it does not belong to our family.

Item No.147 is concerned, it is the self-acquired property of Sri. Puttamadegowda bin Chikkegowda and the same is not available for partition.

Item No.148 is concerned it was belonging to Sri P. Mahadevaiah under the sale deed dated 09.11.1995 and the same was purchased by him and the same was gifted under a gift deed dated 08.05.2019 in favour of his son Sri Prashanth M. Gowda. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.149 is concerned, it is the self acquired property of Puttmadegowda bin Chikkegowda. Hence, the same is not available for partition.

Item No.150 is concerned, it belongs to Sri.Puttamadegowda, who purchased the property under a sale deed dated 20.02.2006 measuring an extent of 30 guntas and another extent of 2 acres under a sale deed dated 20.02.2006. This property is the self-acquired property of Puttamadegowda and the same is not available for partition.

Item No.151 is concerned, it belongs to Sri.Puttamadegowda. He purchased the same under a sale deed dated 20.02.2006. This property is also a self-acquired property of Sri Puttamadegowda. Hence, it is not available for partition.

Item No.152 is concerned, the property shown by the Plaintiff to the schedule in the plaint and as described is not in existence as on today.

Item Nos.153 is concerned, it belongs 1st Defendant who purchased it under a sale deed dated 23.06.1998. It is not a joint family property or ancestral property. Hence, neither the Plaintiffs nor any other persons have got any right over the property and it is not available for partition.

Item No.154 is concerned, it belongs to Megacity Developers under the sale deed dated 09.09.1998. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No. 155 is concerned, it belongs to defendant no.2 under a sale deed dated 10.06.2008 and it is a self acquired property of Defendant No.2. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.156 is concerned, this property was purchased by 6th Defendant under a sale deed dated 10.07.1998 and he sold the same in favour of Prestige Bidadi. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.157 is concerned, it belongs to 2nd Defendant and his mother the 1st Defendant. 2nd Defendant is the owner of 33 guntas and 1st Defendant is the owner of 8 guntas in Survey No.66/1 and this property is a self-acquired property of Defendants 1 and 2 and during the lifetime of Defendants 1 and 2, none of the Plaintiffs and Defendant No.3 will not get any right over the property and this property is sold by them in favour of M/s. Prestige Bidadi. In respect of another Survey No.163, namely, item No.1 of this suit schedule property, the same is

sold in favour of M/s. Prestige Bidadi and is not available for partition.

Item No.158 is concerned, was purchased by the 6th Defendant under the sale deed dated 21.07.1998 and it is sold in favour of M/s. Prestige Bidadi and is not available for partition.

Item No.159 to 162 is concerned, it belongs to Mega City Developers and the same was sold in favour of M/s. Prestige, Bidadi prior to the filing of this suit and it is not available for partition.

Item No.163 is concerned, it was purchased by the 6th Defendant under a sale deed dated 09.07.1999 and it is also sold in favour of M/s.Prestige, Bidadi prior to the filing of this suit and it is not available for partition.

Item No. 165 is concerned, it is belonging to Defendant No.2 and this property is a self acquired property. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.166 is concerned, it belongs to 6th Defendant and he in turn sold the same property to M/s. Prestige Bidadi and it is not available for partition.

Item No.167 is concerned, it was purchased by Mega City Developers under a sale deed dated

10.09.1998 and this property is also sold in favour of M/s. Prestige Bidadi and it is not available for partition.

Item No.168 is concerned, this was purchased by Mega City Developers under a sale deed dated 20.07.1998 and the same was sold in favour of M/s. Prestige Bidadi and it is not available for partition.

Item No.169 is concerned, land measuring 01 acre in the Survey No.172/6 and in Survey No. 172/7, land measuring 01 acre of land was purchased under a sale deed dated 20.07.1998 and subsequently, this land is sold in favour M/s. Prestige Bidadi and it is not available for partition.

Item No.170 is concerned, all the three lands were acquired by Mega City Developers and the same was sold in favour of Prestige Bidadi much before filing of this suit and this property is not available for partition.

Item No.171 is concerned the property was acquired by Mega City Developers and the same was sold in favour of Prestige Bidadi much before filing of this suit and this property is not available for partition. A perusal of the RTC wherein it is standing in the name of Nanjundegowda and the said property is not available as on today.

Item No.172 and 173 are concerned, the property was acquired by Mega City Developers and the same was sold in favour of Prestige Bidadi item much before filing of this suit and this property is not available for partition.

Item No.174 is concerned, this property was purchased by one Mr. Kenchappa measuring 32 guntas and another property measuring 18 guntas belongs to 8th Defendant Smt.Pushpa. These properties are not available for partition and neither Plaintiffs nor Defendants 2 and 3 got any right over these properties.

Item No.175, 176 and 177 is concerned, the land in Survey No.41/3 shows the name of Sri.Puttamadegowda as per the orders passed in M.R. No.17/2006-07 and this property is self-acquired property of Sri Puttamadegowda and this property is not a joint family property or ancestral property as stated by Plaintiffs. As such, this property is not available for partition at the hands of the Plaintiffs.

Item No.178 is concerned, it belongs to Defendant No.2 who purchased the property under a sale deed dated 19.06.1995 This property is a self-acquired property of 2nd Defendant and hence, it is not available for partition.

Item No.179 is concerned, this property was purchased by 2nd Defendant under a sale deed dated 19.06.1995. This property is a self-acquired

property and hence, it is not available for partition.

Item No. 180 to 181 is concerned, it was acquired by Sri Mahadevatah vide sale deed dated 12.10.1995 and it stands in his name and none of the Plaintiffs got right over these two items for partition.

Item No.182 to 184 is concerned, they are self-acquired properties of Sri Puttamadegowda and this property is not available for partition in the hands of Plaintiffs.

Item No. 186 to 192 are concerned it does not belong to any of the family members and hence it is not available for partition

Item No. 193 is concerned, the Sy. No. 46/5 it exclusively belongs to Sri. Puttamadegowda and it is his self-acquired property under a sale deed dated 30.01.2003. So far as 46/11 is concerned this property is not a joint family property or ancestral property and the question of Plaintiffs deriving any right will not come at all. As such, this property is not available for partition at the hands of the Plaintiffs and anybody is else.

Item No.194 is concerned, it exclusively belongs to Puttamadegowda and it is his self acquired property under a sale deed dated 25.03.1996. This property is not a joint family property or ancestral property and the question

of Plaintiffs deriving any right will not come at all. As such, this property is not available for partition at the hands of the Plaintiffs and anybody is else.

Item No.195 to 197 are concerned, it exclusively belongs to Puttamadegowda. These properties are not a joint family property or ancestral property and the question of Plaintiffs deriving any right will not come at all. As such, this property is not available for partition at the hands of the Plaintiffs and anybody is else.

Item No.198 and 200 are concerned, it exclusively belongs to Puttamadegowda and it is his self-acquired property under a sale deed dated 13.12.1995. This property is not a joint family property or ancestral property and the question of Plaintiffs deriving any right will not come at all. As such, this property is not available for partition at the hands of the Plaintiffs and anybody is else.

Item No.199 is concerned, it exclusively belongs to Puttamadegowda and it is his self acquired property under a sale deed dated 26.04.1999. This property is not a joint family property or ancestral property and the question of Plaintiffs deriving any right will not come at all. As such, this property is not available for partition at the hands of the Plaintiffs and anybody is else.

Item Nos. 201 to 208 is concerned, it does not belong to family members and a third party is the owner of the property and the same is not a subject matter of this suit, but it is belonging to some other person, hence it is not available for partition by any of the Plaintiffs and Defendants.

Item No.209 is concerned, it exclusively belongs to Puttamadegowda. This property is not a joint family property or ancestral property and the question of Plaintiffs deriving any right will not come at all. As such, this property is not available for partition at the hands of the Plaintiffs and anybody is else.

Item No.210, 219, 220 and 221 is concerned, it was purchased by Sri Puttamadegowda under a sale deed dated 27.09.2016, 31.07.1990, 16.10.2015. This property is self-acquired property of Puttamadegowda and this property is not available for partition and the Plaintiffs cannot claim any right in this property.

Item No.211 to 218 and 220 to 223 are concerned, these properties are not belonging to any of the family members of the parties herein. The Plaintiffs have not stated in what manner these properties are available for partition."

12. He has produced documents and specifically contended that maximum properties are standing in his name and they are his self-acquired properties.

13. He denied that there was a cause of action to the plaintiffs to file this suit and he also denied that plaintiffs have got prima-facie case and balance of convenience leans in their favour. He has contended that if TI is granted or continued, he will be put to hardship. So, he prayed to dismiss the suit as well as I.A.No.II.

14. Defendants No. 1, 4 and 5 filed separate objection to I.A.No.II. They have denied the claim of plaintiffs over the suit properties. They have contended that suit for partition itself is not at all maintainable. The 1st plaintiff is divorced wife of defendant No.2 and hence, she cannot be called as member of the family or the alleged joint family. So, she has been ousted from the joint family of the 2nd defendant. Hence, she cannot file this suit. They also contended that plaintiffs have not described the suit properties and contended that there is no clear description as to how the schedule properties came to the alleged joint family and on which date and in whose names and how the

same were acquired. Hence, plaintiffs are not entitle for temporary injunction. They also contended that Puttamadegowda had a meager income and hence, purchasing the suit properties by using nucleus of joint family is just imaginary one. Plaintiffs have not explained which are the ancestral properties and which are the joint family properties. So, without explaining they cannot maintain the suit and maintain the I.A. After the death of Puttamadegowda his properties are inherited by his children as per Section 8 of the Hindu Succession Act, 1956 and they become their self-acquired properties and they are not joint family properties. They also contended that plaintiff No.2 during the lifetime of her father cannot maintain the suit for partition with respect to his self-acquired properties and he cannot claim share on the properties derived upon by her father as per Section 8 of the Hindu Succession Act. Hence, the suit is not maintainable.

15. Plaintiffs have not complied Section 122 of KLR Act. Hence, the suit is not at all maintainable. They have specifically contended as under :

16. Item No.4 of the suit properties came to defendant No.4 as per release deed executed by Ashwin Kumar and Item No.5 was purchased by defendant No.4 from one Shivakumar. So, plaintiffs without explaining details as to how these properties came, they have filed this suit. Hence, it is not maintainable.

17. The property purchased under sale deed dated 18.10.1995 i.e., Item Nos.13 and 14 does not belong to parties to the suit. Hence, plaintiffs cannot claim share in these properties.

18. Plaintiffs have included the self-acquired properties of defendants No.1, 4 and 5 and in these properties plaintiffs cannot claim share. In para No.21,

defendants No.1, 4 to 5 have specifically described that, property purchased by them are as under :

“Item No.2 was purchased by one Sri D.U. Chengappa from K.S.Mohammed Masood under sale deed dated 25.01.2001. This property was subsequently transferred by Sri. D.U. Chengappa vide gift deed to the name of 4th Defendant Smt.Sheela and her mother Smt.Amrutha Lakshmi and both of them are the owners of Item No.2 of the suit schedule property. This property neither belongs to Plaintiffs or Defendant No.2. As such this property is not available for partition.

Item No.3 is concerned, it was originally belonging to Smt. Vasanth Nagaraj, who purchased under a sale deed dated 08.03.2013 from Sri K.V. Nageswar Rao. Thereafter, Smt.Vasanth Nagaraj sold the property in favour of Defendants No.2 and 4 under a sale deed date 05.02.2020. A perusal of payment of sale consideration to Smt. Vasanth Nagaraj are shown clearly in page 9 of the sale deed. All these amounts were paid by Defendants No.1 and 2 and they have also taken some financial assistance from Euro Finance Corporation and this property is exclusively belonging to Defendants No.2 and 4 and it cannot be taken for partition during the lifetime of Defendants No.2 and 4. Thereafter, 2nd Defendant executed a Gift Deed in so far as property in favour of his wife,

the Defendant No.4 under a Gift Deed dated 02.09.2021 and by virtue of this Gift Deed and the sale deed dated 05.0.2020. Item No.3 exclusively belongs to Defendant No.4 and no other person has got any nature of right over the suit schedule property. This aspect makes it clear that the Plaintiff has suppressed this property as joint family property which is in-correct. For the aforesaid reasons, this property is not available for partition and Plaintiff is not entitled for any relief.

Item No.4 is concerned it was belonging to BDA and it was sold in favour of Sri.Chennappa and Sri. Nanjundeshwara under a sale deed dated 17/10/2002. Thereafter Sri.Chennappa and Sri Nanjundeshwara sold the property in favour of C.R Aswin Kumar and Sheela P.V under the sale deed dated 24.10.2015. Thereafter, Sri Aswin Kumar released his share of the property under a release deed dated 01.09.2006 in favour of the 4th Defendant and this property is not available for partition. This property exclusively belongs to 4th defendant.

Item No.5 is concerned, this property was originally belonging to Bengaluru Development Authority and the same was sold in favour of Sri S.M. Shivakumar under a sale deed dated 03.09.2012. Thereafter, Sri S.M. Shivakumar sold the property in favour of 4th Defendant under a

sale deed dated 03.10.2012. This property is also not available for partition.

Item No.6 is concerned, this property was belonging to Bengaluru Development Authority and the Bengaluru Development Authority has sold the Item No.6 of the property in favour of 2nd Defendant under a sale deed dated 11.03.2011. A perusal of page No.2 of the sale consideration refers payment of sale consideration to the Bengaluru Development Authority. In pursuance of the sale deed, the 2nd Defendant, acquired his right over the Item No.6 of the suit schedule property and subsequently he gifted the property in favour of 4th Defendant under a gift deed dated 19.03.2024 and this property is not available for partition.

Item No.17 is concerned, the property belongs to the Defendant No.1 and 3. Defendant No.1 has purchased the extent of 10 guntas sale deed dated 15.09.1995 from one Eerudaiah and the Defendant No.3 has purchased an extent of 1 acre 17 guntas from Syndicate Bank Retired Employees Welfare Association under a sale deed dated 19.08.2021. It is the self-acquired property of the 1st and the 3rd Defendants and is not available for partition.

Item No. 27 is concerned, it was purchased by Defendant No.1 under a sale deed dated

24.07.2007 and it is the self-acquired property of Defendant No.1 and it is not available for partition.

Item No.30 is concerned, it was purchased by the 2nd Defendant under sale deed dated 30.12.2003. It is the self-acquired property of Defendant No.2 and it is not available for partition.

Item No.31 is concerned, it belongs to Smt.Nagarathnamma, the 1st Defendant, who purchased the property under a sale deed dated 05.07.2006 and this property was self-acquired property of 1st Defendant and this is not available for partition by any party.

Item No.42 is concerned, it belongs to Sri.Puttamadegowda and in this item, none of the Plaintiffs got right over the item No.42 of the said property. Admittedly, there is no partition in respect of item No.42 is concerned and no property is allotted to the share of and Defendant. As such, when there is no partition in respect of Item No.42 is concerned, the question of getting any exclusive right by the 2nd Defendant in this item will not arise, consequently, Plaintiff cannot derive any nature of right over the Item No.42 of the suit schedule property and they cannot make suit during the

lifetime of 2nd Defendant in view of legal bar under Section 8 of the Hindu Succession Act.

Item No.43 and 46: are concerned, they were belonging to Defendant No.2 according to the sale deeds dated 23.11.2023 subsequently they were gifted vide the gift deeds dated 11.01.2024 to Defendant No.5. All the Revenue records are transferred in the name of 5th Defendant and the 5th Defendant is paying taxes to the Government and as such these properties are not available for partition.

Item No.62 is concerned, originally it was belonging to Smt. Giryamma and she sold the same in favour of 4th Defendant under a sale deed dated 04.04.2007 and this property does not belong to 2nd Defendant or Plaintiffs and this being the self-acquired property of 4th Defendant, it is not available for partition at the hands of the Plaintiffs.

Item No.75, 76 and 77 are concerned: it belongs to 4th Defendant and she purchased the property for valuation sale consideration and it is not available for partition.

Item No.79 is concerned, this property belongs to Defendant No.4, who purchased it under the sale deed dated 18.03.2008.

Subsequently, the same vendor has sold for the second time in favour of other. In this, property none of the other parties have any right of partition.

Item No.87 is concerned, it belongs to 1st Defendant alone and the same was mutated as MR.No.27/1995-1996 and the same it is not available for partition at the hands of Plaintiffs.

Item No.108, 109 and 111: (Old Sy. No 153/3 and new Sy No.153/5) are concerned, they originally belonged to defendant No.2 under a sale deed dated 16.08.2008 and the same were gifted to the 4th Defendant under gift deed dated 27.09.2024 and neither of the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.110 and 112 are concerned, they were purchased by the 4th Defendant under the sale deeds dated 13.09.2019 and 07.11.2019 respectively and all the revenue records are standing in the name of the 4th Defendant and neither the Plaintiffs nor any other persons have got any right over these properties. Hence, it is not available for partition.

Item No.113 is concerned, it was purchased by 4th Defendant under a sale deed dated 04.07.2007 and all the Revenue Records are

standing in the name of 4th Defendant as per the orders in M.R. No.7/2007-2008 and neither the Plaintiffs nor any other persons have got any right over this property and hence, it is not available for partition.

Item No.114, 115 and 116 are concerned, it originally belongs to 8th Defendant. Hence, neither the Plaintiffs nor any other persons have got any right over this property and it is not available for partition.

Item No.152 is concerned, the property shown by the Plaintiff to the plaint schedule and as described is not in existence as on today Item Nos.153 is concerned, it belongs 1st Defendant who purchased it under a sale deed date 23.06.1998. It is not a joint family property or ancestral property. Hence, neither the Plaintiffs nor any other persons have got any right over the property and it is not available for partition.

Item No.157 is concerned, it belongs to 2nd Defendant and his mother the 1st Defendant. 2nd Defendant is the owner of 33 guntas and 1st Defendant is the owner of 8 guntas in Survey No.66/1 and this property is a self-acquired property of Defendants 1 and 2 and during the lifetime of Defendants 1 and 2, none of the Plaintiffs and Defendant No.3 will not get any right over the property and this property is sold

by them in favour of M/s. Prestige Bidadi. In respect of another Survey no.163, namely, item No.1 of this suit schedule property, the same is sold in favour of M/s. Prestige Bidadi and is not available for partition.

Item No.211 to 218 and 220 to 223 are concerned, these properties are not belonging to any of the family members of the parties herein. The Plaintiffs have not stated in what manner these properties are available for partition."

19. So, they contended that several properties belonging to M/s.Mega City Developers and Builders Pvt. Ltd. Project have been included in the suit properties and now defendant No.2 was removed from the said company from competent Court. Hence, plaintiffs cannot claim share with respect to the said properties. They also contended that plaintiff No.1 being divorced wife of defendant No.2, attempted to defame defendant No.2 and when she could not succeed, she filed the present suit including other family members of defendant No.2 only in order to harass them. They also contended that the plaintiffs have no

prima-facie case, balance of convenience does not lean in their favour and if TI is continued, defendants will be put to hardship. They have adopted the objection filed by defendant No.2. They prayed to reject I.A.No.II.

20. Defendant No.3 also filed objection to I.A.No.II, but he has supported the case of the plaintiffs. Defendant No.3 has also filed written statement by supporting the case of the plaintiffs and he prayed to allot his share in the suit properties and he prayed to allow I.A.No.II.

21. Defendants No.6 and 7, the brothers of defendant No.2 have filed separate objection to I.A.No.II. The sum and substance of their objection is similar to objection of defendant No.2. They denied the share of plaintiffs over the suit properties. They denied that suit properties are ancestral and joint family properties of plaintiffs. They also contended that plaintiff No.1 herself has obtained divorce by filing M.C.No. 1473/2003 and she cannot maintain this

partition suit. They also contended that, during the lifetime of defendant No.2, plaintiff No.2 cannot file suit for partition as it is barred under Section 8 of Hindu Succession Act. They also contended that, all the suit properties are not exclusively belonging to Puttamadegowda and hence, plaintiffs cannot claim share in all the suit properties. They also contended that defendant No.2 himself has no specified share i.e., 1/7th share in the suit properties. Hence, plaintiff No.2 cannot claim any share in his share. They also contended that some properties are standing in the name of their father and some properties are self-acquired properties of defendants No.1, 2, and 6 to 9. So, in these properties plaintiffs cannot claim share. They also contended that they were ceased to be directors of M/s.Mega City Developers and Builders Pvt. Ltd., and the properties standing in the name of M/s.Mega City Developers and Builders Pvt. Ltd., cannot be made as suit properties in this suit. So, their objection is similar to the

objection of defendants No.2, 4 and 5. From page Nos.13 to 29 they have also given description of the suit properties as described by defendant No.2. They have specifically contended that Item Nos.47, 51, 52, 53, 56, 65, 105, 119, 124, 125, 126, 127, 128 and 130 are the self-acquired properties of C.P.Gangadhar i.e., defendant No.6 and in these properties, plaintiffs cannot claim share.

22. Defendants No.6 and 7 also contended that Item Nos.98, 101, 106, 130, 134 and 140 are the self-acquired properties of defendant No.7. Hence, in these properties plaintiffs cannot claim share. They have produced documents along with their objection. They prayed to reject I.A.No.II with costs.

23. Defendant No.9, the sister of defendant No.2 has also filed separate objection to this I.A. Her objection is similar to the objection of defendants No.2, 6, 7 and 8. She denied the share of plaintiffs over the suit properties and

she also denied the nature of suit properties. She also specifically contended that Item Nos.74 and 78 are purchased by her, through sale deed dated 19.9.2000. So, these properties are her self-acquired properties and in these properties plaintiffs cannot claim share. So, by denying the contents of the application she prayed to reject I.A.No.II with costs.

24. Heard learned counsel for the plaintiffs, learned counsel for defendants No.1, 4 and 5, learned counsel for defendant No.2, learned counsel for defendant No.3, learned counsel defendants No.6 and 7 and the learned counsel for defendant No.9. The learned counsel for the plaintiffs relied upon the following citations :

- 1) AIR 1986 Punjab and Hayana 197 – Nachhittar Singh Vs. Smt.Jagir Kaur and others.
- 2) AIR 2000 Supreme Court 3272 -Gram Panchayat of Village Naulakha Vs. Ujagar Singh and others.
- 3) AIR 1982 BOMBAY 231 – Smt.Rajeshbai and others Vs. Smt. Shantabai.

- 4) AIR 1987 KARNATAKA 241 – Iravva Vs.
Shivappa Shiddalingappa Angadi.

25. The learned counsel for the defendant No.2 relied upon two citations :

- (1) 2006 SCC OnLine KAR 464 – N.Narasimhaiah
and others Vs. B.S.Vimala and another
- (2) [2018] 7 SCC 646 – Shamnarayana Prasad Vs.
Krishnaprasad and others.

26. The learned counsel for the defendant No.3 relied upon two citations :

- (1) ILR 2012 KAR 4129 – S.K.Lakshminarasappa
(Since deceased) by his LRs Vs. B.Rudraiah
and others.
- (2) C.M.A.No.294/2021 of Hon'ble Andhra Pradesh
High Court.

27. Learned counsel for plaintiffs also filed written synopsis. Perused the same. Perused the materials on record and citations relied by the plaintiffs.

28. Following points arise for my consideration :

- (1) Whether the plaintiffs have made out prima-facie case?
- (2) Whether the balance of convenience leans in favour of the plaintiffs ?
- (3) Whether the plaintiffs will be put to hardship if temporary injunction is refused ?
- (4) What order ?

29. My answers to the above points are as under:

- Point No.1 : In party affirmative.
Point No.2 : In party affirmative.
Point No.3 : In party affirmative.
Point No.4 : As per the final order, for the following:

REASONS

30. **Points No.1 to 3** : - It is well settled position of law that, while considering the application under Order XXXIX Rules 1 and 2 C.P.C. the Court shall not conduct mini trial. But, at the same time the plaintiff has to make out above said all the three points for consideration.

31. The relationship between the parties is not in dispute. It is not in dispute that plaintiff No.1 is the

divorced wife of defendant No.2 and plaintiff No.2 is the daughter and defendant No.3 is son born to defendant No.2 and plaintiff No.1 out of their wedlock. It is not in dispute that, defendant No.1 is grand-mother of plaintiff No.2 and defendants No.2, 6 and 7 are the sons of defendant No.1 and defendants No.8 and 9 are her daughters. Further it is not in dispute that, defendant No.4 is the second wife of defendant No.2 and defendant No.5 is their son.

32. In the plaint itself there is specific pleading that plaintiff No.1 had filed divorce petition. But, it is the contention of the plaintiff No.1 that the said divorce decree is nullity in the eyes of law. But, said decree is not challenged since 2004. Admittedly, the suit schedule 'A' property are Item Nos.1 to 223. It is the case of plaintiffs that defendant No.2 and plaintiff No.1 were running real estate business and started company called M/s.Mega City Developers and Builders Pvt. Ltd., and out of the income of

the said real estate business, maximum properties were purchased. Hence, the daughter of plaintiff No.1 namely plaintiff No.2 has got right in the suit properties. It is also the case of the plaintiffs that, defendant No.2 is kartha of the family and suit properties are ancestral and joint family properties of plaintiff No.2 and hence, they have got share in the same and now defendants are trying to alienate the said properties. In the plaint there is no specific pleading with respect to each of the suit properties. There is no specific pleading as to which are the ancestral properties, which are the joint family properties and which properties were acquired by defendant No.2 by using the joint family funds or nucleus of the joint family. It is the case of the plaintiffs that, ancestral properties were invested in the business and out of the income, some of the properties are acquired, but there is no specific pleading about these properties. It is also the case of the plaintiffs that, all the properties have gained identity of ancestral properties, but

the said fact cannot be accepted at this stage without sufficient materials. Plaintiffs have produced copy of the Management Pattern of M/s.Mega City Developers and Builders Pvt. Ltd. But, this document is not sufficient to hold that the properties acquired by M/s.Mega City Developers and Builders Pvt. Ltd., are the properties acquired by using joint family funds.

33. The learned counsel for the plaintiffs by relying upon the plaint in O.S.No. 6836/2024 argued that the present defendant No.2 had filed the said suit for partition and separate possession with respect to property bearing No.587 and in the said suit he had admitted the nature of the property as joint family property. But, I decline to accept this contention at this stage, because, the said property is not the suit property in this suit. The said suit is dismissed for default. In the said suit, the present defendant No.2 has specifically pleaded that 'Malvika Solanki is his divorced wife". He has specifically pleaded that

the said property was purchased by him by using joint family funds in the name of his son Shravan Yogeeshwar and in the name of Malvika Solanki. In this case it is not the contention of the plaintiff No.2 that the said property was joint family property and it has to be partitioned. But, in plaint para No.13 plaintiffs have pleaded that the claim of the plaintiff [present defendant No.2] of said case was frivolous claim and in affidavit filed in support of I.A.No.II she has contended that the said house was purchased by her mother and brother on 17.9.2021 under a registered sale deed. So, the recitals of plaint in O.S.No.6836/2024 are not at all helpful to the present plaintiffs to prove that all the suit properties of present suit are joint family properties of plaintiff No.2. Plaintiffs have not produced any documents to show that the said property and all the suit properties of this suit are acquired by using joint family funds or by using income gained from M/s.Mega City Developers and Builders Pvt. Ltd.

34. Plaintiffs have not described the nature of each property, hence, they were directed to furnish the details and accordingly, the advocate for plaintiffs filed a Memo on 29.7.2025 and furnished the necessary particulars of each of the properties. As per the list furnished by the plaintiffs themselves, maximum properties are standing in the name of defendant No.2. There is no pleadings as to which property was acquired by defendant No.2 by using joint family funds, what was the income of the joint family and when these properties were purchased by defendant No.2, etc.,

35. So, without specific pleading about acquisition of each of the properties, this Court cannot accept the contention of the plaintiffs that all the suit properties are joint family properties or ancestral properties.

36. Defendant No.3, the son of plaintiff No.1 has filed written statement and in the said written statement he

has given consent to decree the suit. In para No.1 of the written statement he has specifically contended that his grand-father Puttamadegowda inherited (1) Item No.183 – 2 acres 7 guntas; (2) Item No.184 – 2 acres 22 guntas; (3)Item No.186 – 1 acre 28 guntas; (4) Item No.187 – 7 guntas and (5) Item No.196 – 7 guntas of Chakkere and Chakkaluru Villages from his father Chikkegowda and he has also contended that Mutation No.6/1982-83 and 1/1985-86 were passed and in these mutations, these properties were described as 'Pitrarjita properties'. So, according to defendant No.3, these are the only ancestral properties. Plaintiffs in the list furnished by them at Sl.No.188 to 195 given details of Item Nos.183 to 187 and stated that these are the only ancestral properties. So, in these properties plaintiff No.2 has got birth right and can claim share in these properties. The total extent of these ancestral lands comes roughly about 7 acres. So, the case of the plaintiffs that by using the income of this 7 acres of

land situated at remote village, defendant No.2, his father, mother and his brothers and sisters have accumulated huge properties in their names, cannot be accepted at this stage. The case of the plaintiff No.1 that she came from Marwadi family and she has put financial contribution for the real estate business and she sold her valuable jewelry for financial contribution for the business, etc., requires trial and at this stage there is no materials on record that she has invested huge amount towards business and by using the said financial contribution, defendants No.2, 6 to 9 and defendant No.1 have acquired the suit properties. There is no pleading as to which properties are held by defendants No.4 and 5 and when these properties were purchased by them or there is no specific pleadings that defendant No.2 has purchased these properties in the name of defendants No.4 and 5 by using nucleus of joint family properties. But, there is a general allegation that defendant No.2 has transferred some shares in the name of

defendants No.4 and 5 of M/s.Mega City Developers and Builders Pvt. Ltd. and transferred some properties in their names. But, these bare allegations are not sufficient to accept the contention of the plaintiffs that properties held by defendants No.4 and 5 were joint family properties or ancestral properties.

37. As per the details furnished by plaintiffs with Memo dated 29.7.2025, the properties at Item Nos.187 to 243 were standing in the name of Puttamadegowda. But, in the plaint there is no pleading that these properties were whether ancestral properties or joint family properties. If these properties were standing in the name of Puttamadegowda, then after his death, his Class-I legal heirs can claim these properties as per Section 8 of the Hindu Succession Act. Defendant No.1, defendant No.2, defendants No.6 to 9 are the Class-I legal heirs of Puttamadegowda. The plaintiff No.2 and defendant No.3, the grand-children of Puttamdegowda cannot be Class-I

legal heirs of Puttamadegowda during the lifetime of defendant No.2. Hence, they cannot claim any birth right in these properties. Plaintiff No.2 and defendant No.3 have got birth rights in ancestral properties as stated above i.e., in (1) Item No.183 – 2 acres 7 guntas; (2) Item No.184 – 2 acres 22 guntas; (3)Item No.185 – 12 guntas; (4) Item No.186 – 1 acre 28 guntas; (4) Item No.187 – 7 guntas and (5) Item No.196 – 7 guntas.

38. Defendant No.9 has produced sale deed dated 19.9.2006 with respect to Item No.74 and Item No.78. So, these properties are purchased by her in her individual name. She is married daughter of Puttamadegowda. The contention of the plaintiffs that these properties were joint family properties or ancestral properties, cannot be accepted at this stage.

39. Defendants No.6 and 7 have produced documents to show that Item Nos. 65, 105, 119, 124 to 128

are purchased by defendant No.6. Item No.130 is purchased by defendants No.6 and 7. Item Nos.47, 51, 52, 53 and 56 are belonging to defendant No.2 and defendant No.6 by virtue of Decree for specific performance of contract in O.S.No. 2528/2006. With respect to these properties plaintiffs cannot claim the order of temporary injunction restraining them from alienating the same. Their contention that these properties are their self acquired properties appears more probable at this stage because, plaintiffs have not produced sufficient material to show that these properties were purchased by using joint family funds and sufficient joint family fund was available to purchase the same.

40. Defendant No.7 has produced documents with respect to Item Nos.98, 101, 106, 134 to 140 to show that defendant No.7 has purchased these properties. Item No.130 is standing in the name of defendants No.6 and 7 jointly. So, with respect to these properties also plaintiffs

have not made out prima-facie case to grant temporary injunction as prayed in the application.

41. As per the Memo filed by the advocate for the plaintiffs describing the nature of the properties dated 29.7.2025 suit properties at Sl.Nos.183 to 187 and 196 are the ancestral properties and defendant No.3 also stated that these are the only ancestral properties. These are the properties inherited by Puttamadegowda from his father. So, in these properties plaintiff No.2 and defendant No.3 have got birth right and hence, these properties cannot be alienated by defendants. As per the said Memo, the properties at Item No.2 to 8, Item Nos. 75 to 77, 79, 108 to 113 are standing in the name of defendant No.4 – P.V.Sheela, the 2nd wife of defendant No.2. Plaintiffs have not explained as to how these properties become the ancestral properties or joint family properties of plaintiff No.2. Some of the properties are standing in the name of

defendant No.1. Some of properties are standing in the name of husband of defendant No.8 by name P.Mahadevaiah and plaintiffs have not explained as to how in these properties they have got share. So, considering materials on record at this stage it appears that plaintiffs have included 223 properties as suit properties without explaining the nature of each properties. So, I hold that plaintiffs have made out prima-facie case to grant injunction only with respect to ancestral properties, balance of convenience leans in their favour only with respect to these properties and they will be put to hardship if TI is refused with respect to these ancestral properties. As above stated, there is no materials on record that these ancestral properties have sufficient income and out of the said income the rest of the properties were purchased by defendants. The case of the plaintiffs that all three brothers were agriculturists and they had no sufficient income to purchase the properties, hence, plaintiff No.1 has

contributed amount towards purchase of the said properties cannot be accepted at this stage.

42. As per the written synopsis filed by plaintiffs the source / nucleus of the properties is shown as income from ancestral properties, acquisition by Kartha late Sri. Putta Madegowda and sale of ancestral agricultural land during 1991 by Puttamadegowda, but the ancestral properties were roughly 7 acres. So, from such a meager agricultural land there was sufficient income to the family to purchase huge lands, cannot be accepted. If the properties are acquired by Kartha – Puttamadegowda during 1978, then after the death of Puttamadegowda, his Class-I heirs will inherit the said properties as per Section 8 of the Hindu Succession Act, unless plaintiffs establish that those properties were acquired by him out of income of ancestral properties. There is no materials on record that plaintiff No.1 has invested- huge cash by selling jewelry and starting company M/s.Mega City Developers and Builders Pvt. Ltd.

Admittedly, plaintiff No.1 has given resignation to the said company long back. Defendant No.2 and his brothers were also removed from the said company and said company is not party to the suit. So, considering the materials on record I hold that, plaintiffs are entitle for temporary injunction only with respect to ancestral properties and not with respect to all the schedule properties. The voluminous documents produced by the plaintiffs are not sufficient to accept the case of the plaintiffs that all the schedule properties are ancestral properties.

43. The citations relied by plaintiffs in AIR 1967 SC 341 and 2008 AIR SCW 4113 are not at all helpful to the plaintiffs. The citation relied by the plaintiffs AIR 1986 Punjab and Hariyana 197 and AIR 2000 SC 3272 on the point of Section 44 of C.P.C. - collusive decree, are not helpful to the plaintiffs, because the divorce decree was obtained by plaintiff No.1 herself. The next citation AIR 1982 Bombay 231 is not applicable because in the said case

the divorce was customary divorce. But, in this case plaintiff No.1 has obtained divorce through Court. The next citation AIR 1987 KAR 241 is on Order IX Rule 13 of CPC and not applicable at this stage. AIR 1995 SC 1440 is on the point of fraud etc., but in this case the divorce decree is not challenged by plaintiff No.1 in more than 20 years. Hence, said citation is not helpful to the plaintiff. Looking to the contentions taken by the defendants and the documents produced by them, it appears that defendant No.2 being five times MLA and one time Ministers has acquired huge properties, his brothers defendants No.6 and 7 have also acquired some properties and his sisters defendants No.8 and 9 have acquired some properties. Some properties are standing in the names of 2nd defendant's second wife and son. But, in all these properties plaintiff No.2 has no birth right. During the lifetime of defendant No.2, plaintiff No.2 or her brother defendant No.3 cannot claim share in the said properties.

44. The citation relied by defendant No.3 ILR 2012 KAR 4129 is on the point of limitation and not applicable to this case at this stage. The second citation of Hon'ble Andhra Pradesh High Court is to maintain status-quo of alienation of the property, but with due respect I hold that the said citation is not applicable to the properties acquired by the defendants independently.

45. The citation relied by defendant No.1, 4 and 5 reported in ILR 1992 KAR 3772 is not helpful because, the suit for partition filed by plaintiff No.2 with respect to ancestral property is very well maintainable. The rest of the citations relied by them and citations relied by defendant No.2 are not applicable to the facts of this case at this stage. Hence, I answer **Points No.1 to 3 in partly affirmative.**

46. **POINT NO.4** :- In view of the aforesaid findings on Points No.1 to 3, I proceed to pass the following :

ORDER

I.A.No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 r/w/s 151 of C.P.C. is allowed in part.

Defendants No.1, 2, 4 to 9 are restrained from alienating the schedule properties or creating third party interest over suit properties bearing Item Nos.183 – Sy.No.168, Item No.184 – Sy.No.171, Item No.185 – Sy.No.171, Item No.186 – Sy.Nos.14-1, 14-2, 14-3 and 14-4, Item No.187 – Sy.No.15-1 and Item No.196 Sy.No.58-3 more specifically described in the plaint schedule by granting temporary injunction, pending disposal of the suit.

The temporary injunction claimed by the plaintiffs as against other suit properties is rejected.

Temporary injunction granted by this Court at initial stage i.e., on 3.8.2025 is vacated except on Item Nos.183 to 187 and 196.

(Dictated to the Stenographer Grade-I, transcribed by her, then corrected the same directly on computer, signed and then pronounced by me, in open court on this the **15th day of November, 2025**).

(Chinnannavar Rajesh Sadashiv),
XLII Addl. City Civil & Sessions
Judge, Bengaluru.

* * *

Order pronounced in open Court [vide separate Order] :

ORDER

I.A.No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 r/w/s 151 of C.P.C. is allowed in part.

Defendants No.1, 2, 4 to 9 are restrained from alienating the schedule properties or creating third party interest over suit properties bearing Item Nos.183 – Sy.No.168, Item No.184 – Sy.No.171, Item No.185 – Sy.No.171, Item No.186 – Sy.Nos.14-1, 14-2, 14-3 and 14-4, Item No.187 – Sy.No.15-1 and Item No.196–Sy.No.58-3 more specifically described in the plaint schedule by granting temporary injunction, pending disposal of the suit.

The temporary injunction claimed by the plaintiffs as against other suit properties is rejected.

Temporary injunction granted by this Court at initial stage i.e., on 3.8.2025 is vacated except on Item Nos.183 to 187 and 196.

For evidence of plaintiffs, call on

(Chinnannavar Rajesh Sadashiv),
XLII ACC & S Judge, Bengaluru City.