

ORDERS ON IA NO. 1

This is the suit filed by the plaintiff against the defendants seeking Judgment and Decree for partition and separate possession of 1/3rd share in respect of the suit schedule properties and also to declare sale transactions entered by defendant No.2 to 14 in respect of the joint family properties under various Sale Deeds and also permanent injunction from alienating encumbering, mortgaging or leasing in respect of the suit schedule properties and other reliefs.

2. Along with the plaint the plaintiff has filed IA No. 1 under O 39 R 1 and 2 and prays to restrain the defendants, their agents, workmen, henchmen, or anybody claiming through them from alienating, mortgaging, encumbering or creating charge and dealing in any manner in respect of any portion of the suit schedule properties.

3. In the affidavit, supported by the application, the plaintiff submits that her father N Thimma Reddy was the Kartha of the joint family constituting plaintiff and defendants and he died on 29-11-2017. It is submitted that her father Sri Thimma Reddy had acquired schedule A and B properties under joint and ancestral properties of the family. Further, it is submitted that the rest of the schedule properties are earned by all the family members and there is no division of the said schedule properties. It is submitted that her father N Thimma Reddy was the puppet in the hands of defendants and accordingly the defendant No.2 and 3 are the defacto Managers of the joint family. Further it is submitted that,

without the knowledge and consent of the plaintiff the defendant carried out sale transactions in respect of the suit schedule property in favour of the defendant No. 4 to 12 and accordingly revenue records got transferred their names in order to deprive the right of the plaintiff. Therefore, the plaintiff prays to allow the application, or otherwise she will be put to great and irreparable loss and injury and the defendant No.1 to 12 alienate any portion of the suit schedule properties.

4. On perusal of the pleadings, application, accompanied affidavit and all other documents placed by the plaintiff before this Court, at this juncture, this Court is of the opinion that the plaintiff has made essential requisite grounds in his favour.

5. Hence, this Court is of the considered opinion that granting ex-parte ad-interim relief of temporary injunction against the defendants is necessary to protect the interest of the plaintiff over the suit schedule properties by restraining the defendants from alienating, mortgaging, encumbering, creating charge and dealing in any manner in respect of any portion of the suit schedule property till the next date of hearing. If this Court, instead of granting ex-parte ad-interim order of temporary injunction, orders for the issuance of notice to the defendants then the very purpose of granting temporary injunction would be defeated by delay. Hence, for the following:

ORDER

The defendants, their agents, workmen, henchmen, or anybody claiming through them are hereby restrained, by way of ex-parte order of temporary injunction, from alienating, mortgaging, encumbering or creating charge and dealing in any manner in

respect of any portion of the suit
schedule properties till the next
date of hearing.

The plaintiff is hereby directed
to comply the order 39 R 3(a) of
CPC.

Issue notice of order on TI on
IA No.1, notice on IA No.1 and suit
summons to defendant No. 1 to 12
by 01-03-2023.

(18-01-2024)
XXX Addl.CC & SJ Bengaluru.