

KABG040038382025



06.12.2025

O.S.No.1348/2025

ORDERS ON I.A.NO.I

I.A.No.I is filed by the plaintiff U/O. XXXIX Rule 1 and 2 R/w. Sec.151 of C.P.C. seeking ad-interim ex-parte temporary injunction restraining the defendants from putting up any construction of permanent or temporary structure over the suit property, pending disposal of the suit.

It is the case of plaintiff that the suit property was ancestral and joint family property of plaintiff and defendants and that during lifetime of their father Shri. Monappa Gundu Shahapurkar, he executed a Deed of Mutual Partition on 29.09.1998 and accordingly the suit property fell to the share of plaintiff, but the defendants have been trying to

demolish the structure in the suit property which is fallen to the share of plaintiff and they are trying to put up construction.

Heard the learned counsel for plaintiff.

In support of his case, the plaintiff has produced the Mutual Partition Deed dated 29.09.1998 which prima facie reveals that there was already division in the family properties amongst the plaintiff and defendants and the same was reduced into writing. The said mutual partition deed also prima facie reveals that the suit property had fallen to the share of plaintiff. The plaintiff has also produced the Certificate issued by Gram Panchayat, Sulaga to the effect that the plaintiff is the owner of GP No.217/1. No doubt, the Mutual Partition Deed also shows that some portion in House No.217 has also fallen to the share of defendants, but it is the case of plaintiff that the defendants are trying to put up construction by demolishing the structure situated in the portion allotted to the plaintiff's share. As such, it is necessary to

protect the nature of suit property until the other side appear and submit objection.

By producing the aforesaid documents, the plaintiff has made out prima facie case that the plaintiff is in possession of suit property. As such, the plaintiff has made out a case for grant of ex-parte temporary injunction as prayed for in I.A.No.I to restrain the defendants from putting up any construction of permanent or temporary structure over the suit property.

Issuance of notice to defendants before granting T.I. as per I.A.No.I would defeat the very purpose of suit since the plaintiff is shown to be in prima facie possession over suit schedule property. Also, if the present application is not allowed, then it would lead to multiplicity of proceedings. Hence, at this stage, the plaintiff has made out prima facie case to allow the I.A.No.I for granting ex-parte T.I. Hence, I proceed to pass the following :

ORDER

***I.A.No.I filed by applicant/
plaintiff is hereby considered and
the defendants, their agents,***

henchmen acting on their behalf are restrained from putting up any construction of permanent or temporary structure over the suit property, till next date of hearing.

The applicant/plaintiff shall comply the requirements U/O.XXXIX Rule 3(a) & (b) of C.P.C. and shall report such compliance in the office.

Office to issue the copy of this order to plaintiff only on such compliance.

Issue suit summons and notice on I.A.No.I U/O.XXXIX Rule 1 and 2 of C.P.C. to defendants returnable by 19.12.2025.

**Prl. Civil Judge & JMFC
Belagavi.**