

ORDERS ON IA No.I

Perused the plaint averments, documents, IA No.I, the affidavit filed by the plaintiff in support of IA No.I.

I.A.No.I is filed by the plaintiff under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure seeking an order to restrain the defendant No.3 and 4 their agents, servants or anybody acting on their behalf from disturbing the peaceful possession over the suit property till final disposal of the suit.

The plaintiff has filed this suit for the relief of partition and separate possession as well as for declaration to declare the sale deed dated on 16.12.2023 as illegal, void and not binding on the plaintiff.

The plaintiff has pleaded that suit property belongs to uncle of the plaintiff, defendant No.1 and 2 by name Rama Ganpatrao Pawale. Their uncle remained unmarried and he had no children. Himself and his brothers such as defendant No.1 and 2 have entered compromise before the DLSA, Belagavi in PLC No.928/2016. The name of plaintiff, defendant No.1 and 2 has been entered in CTS extract on 03.04.2017. They jointly became the owners in possession of the suit schedule property. Separate share was not carved out between them. The suit property is very small portion measuring 256 sq.ft., It was agreed that in case of any party intends to sell the their portion, then preference to be given to the co-owner.

Defendant No.3 has purchased adjacent land to the suit property from Smt. Vimal Ganpatrao Pawale to an extent of 33.83 sq.mts in CTS No.2185/1F and CTS 2185/2F. Thereafter defendant No.3 began his business therein. Defendant No.4 is the son of defendant No.3 since they are the adjacent owners, very well acquainted with plaintiff, defendant No.1 and 2. Defendant No.2 has sold his undivided share infavour of defendant No.3 under a registered sale deed dated 16.12.2023 through his Power of Attorney. On the basis sale deed defendant No.3 and 4 are causing interference to the possession of the plaintiff over the suit schedule property.

The plaintiff has produced CTS records, registered sale deed executed by defendant No.2 in favour of defendant No.3 and some of the photos. At this stage it is clear that the plaintiff, defendant No.1 and 2 got equal right over the suit schedule property. According the plaintiff, defendant No.2 has sold his share out of the total extent. Therefore, before the granting exparte temporary injunction, it is necessary to hear the defendants.

Issue Emergent Notice on I.A.No.1 to defendants and suit summons to defendants R/by: 15-12-2025.

Sd/-
I Addl Civil Judge & JMFC.,
Belagavi.