

ORDER

The plaintiff has filed this suit for declaration and consequential relief of mandatory injunction along with I.A.No.I under XXXIX Rule and 1 and 2 R/w. 151 of C.P.C. praying to grant ex-parte ad-interim temporary injunction restraining the defendant, his agents, servants, or any person or persons acting on his behalf from alienating the suit property, create any encumbrance over the suit property, pending disposal of this suit, in the interest of justice and equity.

It is stated by the plaintiff that, plaintiff's father was the owner of CTS No. 187 and he intended to alienate the portion of said property, the defendant's father had approached him and after due negotiations, he agreed to sell the residential house located towards western side measuring 69.23sq. Mtr and also southern and northern open space measuring 21.32 x 9.41 and 5.48 x 8.042 – 3.20 x 0.99 sq. ft., 48.88 + 11.9 in all measuring 124.02 sq. mtr out of CTS No. 187 in favour of defendant's father under sale deed dated 21-08-1980 rest of the portion of the suit property belongs to plaintiff. After death of defendant's father, defendant has encroached plaintiff's property and plaintiff requested the defendant not to encroach upon his property and also requested the

defendant to demolish the encroached portion and hand over the vacant possession to him. But defendant declined to the request of the plaintiff. Thereafter plaintiff got issued notice to the defendant through his counsel on 04-11-2024 and said notice duly served to the defendant on 06-11-2024 and give vague reply to the said legal notice on 27-11-2024. Hence, the plaintiff has filed this suit along with application.

In order to prove his contentions, the plaintiff produced certified copies of property extract, ruled card, photos, sale deed, legal notice, postal receipt and acknowledgment, reply notice.

On perusal of the plaint averments and documents, the plaintiff has made out triable case. In order to protect the suit property as it is and to avoid multiplicity of proceedings, the defendant has to be restrained from alienating, create any encumbrance over the suit property. Therefore, the plaintiff has made out prima-facie grounds to dispense the issuance of notice to the defendant. Hence, I proceed to pass the following;

ORDER

The defendant, his agents, servants or any person or persons acting on his behalf is hereby restrained from alienating, creating any encumbrance over

the suit property till next date of hearing.

The plaintiff shall comply the order 39 Rule 3(a) of CPC.

Issue suit summons and notice on I.A. along with order to defendant after compliance by the plaintiff.

Call on 07-04-2025

Sd/-

**IV Addl. Civil Judge & JMFC.,
Belagavi.**