

ORDER ON IA No.I

I.A.No.I is filed along with affidavit and documents. On perusal of the check slip there is no caveat filed in this case. The suit is for partition and separate possession.

IA. No.I is filed U/o. XXXIX Rules 1 & 2 R/w Sec.151 of CPC., for the relief of T.I. against the defendants be restrained from alienating the suit properties in any manner till the disposal of this suit.

I have carefully perused the available materials on record and also I have heard the ld. Counsel for the plaintiff.

It is pleaded that, plaintiff No.1 is the mother of plaintiff No.2 and defendant No.1. The defendant No.2 is the wife of defendant No.1 and daughter in law of plaintiff No.1. The properties bearing RS No.61 measuring 17 acres 25 guntas and RS No.61/1 measuring 04 acres 30 guntas are in possession of plaintiff No.1 and name of plaintiff No.1 has been entered by Tahasildar Bailhongal. Due to old age the plaintiff No.1 intends to partition the suit properties between

Basavaraj (defendant No.1) and Kamalavva (plaintiff No.2) and hence she asks the defendants on several times but defendant No.1 went on postponing the same for one or the other reasons. Further, the defendant No.1 has not taken any care of her old age mother i.e. plaintiff No.1 and hence the plaintiff No.1 is started residing in plaintiff No.2' s house and again plaintiff No.1 has asked the defendant No.1 to partition the suit properties as she has to meet out her medical expenses but defendant No.1 did not heed her request. It is further submitted that, defendant No.1 by colluding with Revenue authorities have entered his name alone to the suit properties without the knowledge and behind the back of plaintiff. When the said fact came to the knowledge of plaintiff No.1 she tried to contact the defendant No.1 but defendant No.1 has switch off his phone. It is further submitted that, the defendants are now trying to alienate the suit properties.

The plaintiffs have filed the Mutation Registers, RTCs extracts of properties etc.,.

The records filed at this stage shows that the suit properties were standing in the name of

Plaintiff No.1 and later she has also released the same in favour of his son and daughter as per MR NO. 1455. But now plaintiff No.1 contends that she never released the properties and defendant No.1 has created those entries. In such circumstances, it is necessary to restrain the defendants from alienating the suit properties until the real facts are decided on merits. Or otherwise the purpose of filing of the very suit will be decided.

Hence, if at all if the suit properties are alienated, it will certainly cause hardship to the plaintiffs and also for the subsequent purchasers.

This Court is conscious that, granting of injunction after issuing notice to the other side is a rule and granting of injunction without issuing the notice is an exception, however in the present case on hand, I am of the considered opinion that if at all if the ex parte temporary injunction is not granted, the purpose of granting injunction may be defeated by delay and if the defendants succeed in alienating the suit properties, as aforementioned it will cause hardship not only to the plaintiffs but also to the subsequent purchasers which will

certainly lead to complexity of litigation. Upon perusal of the case papers, I am of the opinion that the plaintiffs have made out the prima facie case, therefore, I proceed to pass the following;

ORDER

The defendants are hereby restrained from alienating the suit properties in any manner till next date of hearing.

Since ex parte injunction is granted, the plaintiffs shall comply the following conditions as per Order XXXIX Rule 3 (a) of CPC, they are

- 1) The plaintiffs shall send
 - a) The copy of the interlocutory application along with affidavit.
 - b) The copy of the plaint.
 - c) The copies of the documents on which the plaintiff had relied to get this injunction.

To the concerned defendants by way of registered post.

- 2) The plaintiffs shall file an affidavit to the office regarding the compliance of the

same on this very same day or on the day immediately following this day.

Needless to say, non compliance of any of the aforesaid conditions, the exparte injunction granted will be vacated.

Issue suit summons, TI order and notice on IA No.I to all defendants and if the PF and necessary copies are furnished and if aforementioned conditions are complied
R/by 07.02.2026

09.01.2026

Civil Judge and JMFC, Kittur