

ORDER ON IA No.I

This application has been filed by the plaintiff U/O.XXXII Rule 3 R/w Sec.151 of CPC praying to appoint defendant No.3 as the guardian for minor defendant No.2. It is pleaded in the affidavit annexed to the application that, the defendant No.2 is the minor and is aged about 17 years.

As per Order XXXII Rule 3 (1) of CPC it is the obligation on the part of the Court to appoint a proper person as a guardian for the minor defendant. As per Order XXXII Rule 3 (2), an order for appointment of guardian may be obtained upon filing of the application in the name and on behalf of the minor or by the plaintiff himself. In the present case on hand, the plaintiff himself has filed this application. Further, as per Order XXXII Rule 3 (3), such application shall be supported by any affidavit verifying the fact that the proposed guardian has no interest in the matters in controversy in the suit adverse to that of the minor and that he is a fit person

to be appointed as a guardian. But said affidavit has not been filed. As such the application is considered only with respect to serving of summons to the defendant No.2 through guardian i.e., defendant No.3 and concerned defendants may file the objection or say on the same after the appearance.

23.08.2025
**Civil Judge and JMFC
Kittur**

ORDER ON IA No.II

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.II is filed U/o. XXXIX Rules 1 & 2 R/w Sec.151 of CPC., for the relief of T.I. against the defendants their agents, servants or anybody acting on their behalf are 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, one Chinnappa is the propositus of the family of plaintiff and defendants. The suit properties are joint family properties of plaintiff and defendants and they are in joint possession, cultivation and enjoyment over the suit properties. There is no partition and separate possession was taken place between the plaintiff and defendants. Further, submitted that defendants have no exclusive rights, title and interest over the suit property and by taking undue advantage of their name appearing in the RTCs the defendants are trying to alienate the suit properties to the third party by creating false, frivolous documents. It is further submitted that defendants along with their henchmen came to the suit land without having any semblance of right, title and interest over the suit properties tried to make illegal dispossession in the suit property. The plaintiff resisted the defendants but

defendants had not given any head to the request of the plaintiff.

The plaintiff has filed the RTC extracts of properties etc.,.

The plaintiff has alleged that suit properties are joint family properties and Plaintiff claims that he is also having right of share in the suit properties. Therefore, plaintiff is seeking to restrain the defendants from alienating the suit properties. Therefore, it is necessary to restrain the defendants from alienating the said properties.

If at all if the suit properties are alienated, it will certainly cause hardship to the plaintiff 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 exparte temporary injunction is not granted, the purpose of granting injunction may defeated

by delay and if the defendants succeed in alienating the suit properties, as aforementioned it will cause hardship not only to the plaintiff 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 plaintiff has made out the prima facie case, therefore, I proceed to pass the following;

ORDER

The defendants their agents, servants or anybody acting on their behalf are hereby restrained from alienating the suit properties in any manner till next date of hearing.

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

- 1)The plaintiff 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 plaintiff 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 ex parte injunction granted will be vacated.

Issue suit summons, TI order and notice on IA No.I to all defendants if the PF and necessary copies are furnished and if aforementioned conditions are complied R/by 24.09.2025.

23.08.2025.

Civil Judge and JMFC, Kittur