

OS.32/2021.

02.03.2021

For order on I.A

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 & separate possession.

IA. No.I is filed U/o. XXXIX Rules 1 & 2 R/w 151 of CPC., for the relief of T.I. against the defendant No.1 restraining him, his agents or anybody acting on his behalf from creating any encumbrance on the suit properties till the disposal of the suit.

It is the case of the plaintiffs that, the original propositus of the family of the plaintiffs and the defendants is one Hanumantappa S/o Jyoteppa who has died long back leaving behind three sons by names Rudrappa, Jyoteppa & Umappa. All these three persons have died now. The plaintiff No/1 & 2 are representing the branch of Jyoteppa and plaintiff No.3 to 7 are representing the branch of Umappa. All the defendants are from the branch of Rudrappa. Now the plaintiffs seriously apprehends that, the

defendant No.1 at the verge of creating encumbrances over the suit properties. Though, in the application it has been mentioned that, the plaintiffs need the relief with regard to both the suit properties, while arguing the learned counsel for the plaintiff has said that, the defendant No.1 is trying to create encumbrance only with regard to serial-B property i.e. the agricultural land which is measuring 02 acres 15 guntas in Sy. No.162/1.

On perusal of all the available materials on record, I am of the considered opinion that if ex-parte T.I. is not granted against the defendants No.1, his agents or anybody acting on his behalf, in creating encumbrance, the very purpose of the suit will be frustrated and it will lead to multiplicity of proceedings, if the encumbrance is created, it will cause much hardship to the plaintiffs and also to the third persons. As such, I hold that, the plaintiffs have made out prima facie case to grant ex-parte temporary injunction against the defendant No.1. Hence, I proceed to pass the following;

ORDER

The defendant No.1, his agents or anybody acting on his behalf are hereby restrained from creating any encumbrances with regard to Sy. No.162/1, in any manner till this IA is disposed on merits.

Since exparte injunction is granted, the plaintiff shall comply the following conditions as per Order XXXIX Rule 3 (a) of CPC.

The plaintiffs shall send

- 1) The copy of the interlocutory application along with affidavit to the defendants.
- 2) The copy of the plaint.
- 3) The copies of the documents on which the plaintiffs had relied to get this injunction.
- 4) Sl. No.1 to 3 documents shall be sent by registered post.
- 5) The plaintiffs shall file an affidavit to the office regarding the compliance of all the conditions from Sl. No.1 to 4 on this very same day or on the day immediately following this day.

Needless to say, non compliance of any of the aforesaid 5 conditions, the exparte injunction granted will be vacated.

Issue suit summons to all the defendants if the PF and necessary copies of the complaints are furnished. R/by.24.03.2021.

02.03.2021
Civil Judge & JMFC.,
Kittur.