

ORDER ON I.A. No. I

This is the application filed by plaintiff U/o 39 Rule 1 and 2 of CPC, seeking to issue an ad-interim ex-parte temporary injunction against defendants restraining them from causing obstruction to the plaintiff's joint possession and enjoyment of suit land bearing R.S No.156/11 (Old Sy. No.156/6) measuring 2 acres 02 guntas situated at Chimmad village, Tq: Rabakavi-Banahatti till disposal of this suit.

2. Heard learned counsel for plaintiff and perused the plaint averments and documents on record. While considering an application under order 39 Rule 1 and 2 of CPC, the court needs to look into prima facie case, balance of convenience and irreparable loss and injury.
3. Plaintiff has filed this suit for Declaration and consequential relief of permanent injunction. In the affidavit, plaintiff has stated that, defendants are his sisters and their father died on 16.12.2015 and their mother died on 20.01.2024 and they are the only legal heirs of their deceased parents. He is the only son to his parents and his sisters are married and are residing in their respective husbands' houses. He was taking care of his father during his illness and was cultivating the suit land. Prior to the death of his father, he was taken by defendant No.1 stating that, he would recover from illness if there is a change of place and after two months of his stay in the house of defendant No.1, he returned to the house of plaintiff. His father died in 2014 and as he was under a depression, Warsa was not effected and after the death of his mother, when he approached the concerned authority to effect Warsa, he got to know that, names of defendants along with his deceased mother is appearing in RTC extract on the strength of illegal document styled as Will. It is submitted that, defendants got created the said document only to defeat his

legal right over suit land. He has approached concerned authority challenging the entry and the same is pending for adjudication. Though, the names of defendants are appearing in RTC extract, he is in possession and enjoyment of suit land. But, defendants are trying to dispossess him forcibly from his joint possession over suit land. Hence, interference of this court is necessary to restrain defendants from doing illegal acts. It is submitted that, he has got prima facie case and balance of convenience liens in his favour. If the said application is allowed, no injury would be caused to defendants and on the other hand, if the application is rejected, he would be put to great loss and injury and it would lead to multiplicity of proceedings. Hence, prayed to allow the application.

4. At this stage, plaintiff has made out prima facie case and balance of convenience liens in his favour. If ex-parte ad-interim temporary injunction is not granted, defendants may continue to cause obstruction to the plaintiff's joint possession over suit property and this would lead to multiplicity of proceedings. Irreparable loss, injury and hardship would be caused to plaintiff, which cannot be compensated in terms of money. Hence, in the interest of justice, it is necessary to grant ad-interim temporary injunction order against defendants till next date of hearing. Hence, I proceed to pass the following:

ORDER

I.A No.1 filed by the plaintiff U/o 39 Rule 1 and 2 of CPC is hereby allowed.

The defendants are hereby restrained from causing obstruction to the plaintiff's joint possession and enjoyment of suit land bearing R.S No.156/11 (Old Sy. No.156/6) measuring 2 acres 02 guntas situated at Chimmad village, Tq:

Rabakavi-Banahatti till next date of hearing.

Issue emergent notice of T.I. order passed on I.A No.1 and suit summons to defendants, if plaintiff comply order 39 Rule 3(a) of CPC.

Returnable by: 19.04.2024.

Civil Judge & JMFC, Banahatti.