

ORDER ON I.A. No. I & II

These are the applications filed under Order 39 Rule 1 and 2 of CPC, seeking ad-interim temporary injunction against defendants, restraining them from obstructing and interfering with the peaceful possession and enjoyment of suit schedule property and from alienating the suit schedule property respectively till the disposal of the suit.

2. In support of these applications, plaintiff sworn to affidavits and stated that, she is the absolute owner in possession of the suit schedule property which she purchased in 1997 out of her earnings. Defendant No.1 to 3, being the father, brother, deceased brother's wife respectively, colluded with each other and created a forged Hakku bitta patra alleged to have executed by her relinquishing her right in the suit schedule property and based on the said forged document, husband of defendant No.3 i.e., her deceased brother got entered his name in the CMC records as himself is the owner of the property and accordingly, defendant No.3 is obstructing with the peaceful possession and enjoyment of the plaintiff over the suit property and is intending to sell the same without any right, title or interest over the suit property. Hence, intervention of the court is necessary to restrain the illegal act of the defendants. It is submitted that, she has prima facie case and if the

applications are not allowed, she would be put to great hardship which cannot be compensated in terms of money. Hence prayed to allow the applications.

3. 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.

4. Plaintiff has filed this suit for Declaration and permanent injunction. Plaintiff has denied the execution of the alleged Hakku bitta patra in favour of her brother/defendants. On perusal of the materials on record, at this stage, plaintiff has made out prima facie case, balance of convenience lies in her favour. If ex-parte ad-interim temporary injunction is not granted, the defendants may further obstruct the plaintiff from possession of the suit property based on the name of husband of defendant No.3 appearing in the municipal records and may alienate the said suit property to third person, which will lead to multiplicity of the proceedings. Hence, it is necessary to restrain defendants, otherwise, the object of granting injunction would be defeated by delay and would lead to multiplicity of proceedings. Irreparable loss, injury and hardship would be caused to the plaintiff. Hence, in the interest of justice, it is necessary to grant ad-interim temporary injunction order against defendants

till the next date of hearing. Hence, I proceed to pass the following ...

ORDER

I.A. No.I & II filed by the plaintiff under Order 39 Rule 1 and 2 of CPC is hereby allowed.

Defendant No.1 to 3 are hereby restrained by way of ad-interim temporary injunction from obstructing and interfering with the peaceful possession and enjoyment of suit schedule property and from alienating the suit schedule property till the next date of hearing.

Issue E/N of T.I. order passed on I.A. No.I & II & suit summons to defendants, if plaintiff comply order 39 Rule 3(a) of CPC.

Returnable by: 04.01.2022.

Sd/-

Civil Judge & JMFC, Banahatti.