

ORDER ON IA-1 & 2 U/O 39 RULE 1 & 2 CPC

Suit is for declaration of title over suit land.

Plaintiffs asserted that; their father sold suit land on 05.02.75 in favour of Satteppa with a condition to re-convey the same within a year. In pursuance of said condition he has executed agreement. Their father did not delivered actual possession of suit land to Satteppa on 05.02.75 and he retained possession. In the mean time animosity developed between their father and Satteppa, due to this Satteppa sold suit land to defendant-1 under sale deed dated;20.08.76. Thereafter, their father filed a suit OS.No.55/82 for declaration and injunction which was dismissed on 05.02.95, which is impugned in RA.No.1/96, which is also dismissed, wherein title of defendant-1 was upheld, it is admitted by the plaintiffs. During pendency of RA.No.1/96 plaintiffs father left cultivation due to old age and plaintiffs started cultivation from 01.04.1996 without any obstruction and adverse to the interest of defendant-1. Defendants try to dispossess plaintiffs taking police assistance and case u/Sec.107 Cr.P.C was registered on 29.09.21. Hence, suit is filed.

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Plaint is appended with IA-1 & 2; u/O 39 Rule 1 & 2 CPC, wherein it is prayed to restrain the defendants from obstructing possession of plaintiff and from alienating the suit property respectively.

Plaintiffs have produced documents viz., application submitted to Tahasildar, order sheet of Cri.RP.No.5040/21, preventive action report, application u/Sec.107 Cr.P.C, copy of sale deeds, judgment and decree of RA.No.1/96 and RTC extracts. Apprehension of plaintiffs is that; if the defendants are not restrained from alienating suit property, they will be subjected to hardship which cannot be compensated by any means and it will lead to the multiplicity of proceedings.

On perusal of plaint, IA-1 & 2 along with affidavit averments and documents relied by the plaintiffs, it reveals that at the moment they have made out a prima facie case and there is no reason to suspect the bonafides of their case. If ex-parte order on IA-2 is not granted a situation may arise, which might become irreversible by the time the dispute is closed. If prior notice is not dispensed, the delay causing in service of notice defeats the very purpose of

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filing suit. Hence, prior notice on IA-2 is dispensed and proceeds to pass the following;

O R D E R

Defendants are hereby temporarily restrained from alienating the suit land bearing **RS.No.38/1B** (8As 18Gs) of Gothe village, Tq: Jamkhandi respectively till further orders.

Issue ex-parte temporary injunction order on IA-2 against defendants, if provisions of Order 39 Rule 3 CPC are complied.

Issue suit summons and emergent notice on IA.1 and 2 to the defendants & through Court & RPAD returnable by: **29.11.2021**.

Sd/-

Addl. Senior Civil Judge,

JAMKHANDI.