

O.S.NO.167/2022

14-02-2022

Pltf. - Mariyappa

D1 to 10 -

■ For Orders

14-02-2022

Heard counsel for plaintiff on an I.A. No.2 & 3 which are filed under order 39 Rule 1 and 2 of C.P.C. seeking to restrain the defendants No.7 to 9 and their agents or any body acting under them from alienating the suit property to the 3rd parties during pendency of suit and receiving compensation from defendant No.10. According to them, they themselves and defendants No.1 to 9 constitute Hindu undivided joint family and suit properties are the joint family properties of themselves and defendants No.1 to 9. The request made by them to effect partition and separate possession has been turn down by defendants. Hence they approached this court.

The plaintiff has shown apprehension that the defendants No.7 to 9 may receive entire compensation from defendant No.10 in respect of property bearing Sy.No.33/1 measuring 12 gunta, 45/3 measuring 1 acre, 7/1 measuring 1 acre 29 guntas. Hence they filed I.A.No.2 Under order 39 Rule 1 & 2 of C.P.C. seeking to restrain the defendants No.7 to 9 from receiving entire compensation from defendant No.10.

The plaintiff shown apprehension of alienation of property bearing Sy.No.2/2 measuring 11 gunta, 3/4 measuring 9 guntas, 3/8 measuring 8 gunta by the defendants No.7 to 9. Hence they filed I.A.No.3 under order 39 Rule 1 & 2 of C.P.C seeking to restrain the said defendants and their agents or anybody acting under them from alienating the said properties.

Perused the plaint averments and annexed documents such as Genealogical Tree, Record of Rights, Copy of Will and Notice. The plaint averments and annexed documents indicate prima-facie case in favour of Plaintiffs at this stage only in respect of properties mentioned in I.A.No.3. Hence in order to protect the interest of both the parties over properties mentioned in I.A.No.3, I proceed to pass the following :

ORDER

The defendants and their agents or anybody acting under them are hereby temporarily restrained from alienating the properties mentioned at I.A.No.3 to the 3rd parties till next of date hearing.

The plaintiff shall comply order 39 Rule 3 A of C.P.C. in respect of I.A.No.3. Issue suit summons to defendants through R.P.A.D. and through court along with interim order passed on I.A. No.3 against defendants.

The Plaintiff shall pay sufficient process fee and registered postal cover and acknowledgment. If she failed to pay the proper process fee, the office is directed to post this case immediately before the court so as to pass appropriate order in vacating the interim order.

O.S.NO.167/2022

Call on : 23-05-2022.

**Addl. Senior Civil Judge & J.M.F.C.,
Devanahalli.**