

O.S.NO.1146/2022

01-10-2022

Pltfs. - V.S.K.

D1 to D5 -

■ For Orders

01-10-2022

Heard counsel for plaintiffs on I.A.No.1 & 2. The I.A. No.1 is filed under order 39 Rule 1 & 2 of C.P.C. seeking to restrain the defendant No.5 and his agents or anybody acting under him from alienating the suit property to the 3rd parties during pendency of suit. According to them, the husband of plaintiff No.1 and father of other plaintiffs by name Puttaswamappa has purchased the suit property bearing Sy.No.91/3 measuring 21 gunta under two registered Sale Deeds dated 27-04-1973 & 30-04-1974 from its erstwhile owner. It is stated in the plaint that the original owner of suit property was one Muniswamappa who allotted 21 guntas to his children's born to his first wife Nanjamma. He has given 7 gunta of property by way of Will to his second wife Mayamma and after her death he has created interest in favour of defendant No.1 to an extent of 7 gunta. However the defendants have alienated suit property to an entire extent of 28 guntas in favour of defendant No.5 under registered Sale Deed dated 16-07-2022. Therefore they filed suit seeking for the relief of Declaration and Permanent Injunction.

The plaintiffs shown apprehension that the defendant No.5 may alienate the suit property. Hence they filed I.A.No.1 under order 39 Rule 1 & 2 of C.P.C seeking to restrain the defendant No.5 and his agents or anybody acting under him from alienating the same.

Perused the plaint averments and annexed documents such as copies of registered Will, Sale Deeds and copies of order passed by revenue authorities reserving liberty to the plaintiff No.8 to approach Civil Court. The plaint averments and annexed documents indicate prima-facie case in favour of Plaintiffs at this stage. If notice is ordered prior to considering the I.A.No.1, the purpose of filing of suit would be defeated. Therefore in order to protect the interest of both the parties over subject matter of suit, I proceed to pass the following :

ORDER

The defendant No.5 and his agents or anybody acting under him are hereby temporarily restrained from alienating the suit property to the 3rd parties till next date of hearing.

The plaintiffs shall comply order 39 Rule 3 A of C.P.C. Issue suit summons to defendants through R.P.A.D. and through court along with interim order passed on I.A. No.1 against defendants.

The Plaintiffs shall pay sufficient process fee and registered postal cover and acknowledgment. If they 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 it.

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The request for issuing injunction in respect of I.A.No.2 will be considered on merits after appearance of defendants.

Call on : 07-11-2022.

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