

OS No. 155/24

Defendant no.4 present.

**ORDERS ON IA No.1 and 2**

The present applications are filed U/o 39 Rule 1 and 2 of CPC. Under I.A.No. 1, the plaintiff has sought for an order of temporary injunction against the defendant nos.3 to 5 from making alternation or from putting up further construction in suit schedule item No.1 property.

Under I.A.No. 2, the plaintiff has sought for grant of temporary injunction against the defendant no.1 from alienating the suit schedule item No.2 property to anybody in any manner.

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Both these applications are supported with the affidavit of the plaintiff, who has sworn to the fact that under registered partition deed dated 15.12.2000, her father Basavaraju are allotted the suit schedule properties and in spite of she being Class I heir of

Basavaraju, the defendants are trying to deprive her rights in the suit schedule properties by creating will dated 09.10.2020 and sale deed dated 18.05.2024.

Per contra the defendants have filed their objections to application on the ground that the defendant nos.3 to 5 are bona fide purchaser of suit schedule properties and the plaintiffs have no right over the same. On these grounds and such others it is prayed for dismissal of the applications.

Heard arguments. Perused records.

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The suit of the plaintiffs is one for the relief of declaration, partition and separate possession. The plaintiff claim that she has half share in the suit schedule properties. The defendant no.1 and 2 do not deny their relationship with the plaintiff. The

plaintiff claims that the defendant no.3 to 5 are putting up construction in the suit schedule item No.1 property and that the defendant no.1 is trying to alienate the suit schedule item No.2 property. If the defendant no.1 were to alienate the suit schedule item No.2 property pending disposal of the suit, the very purpose of filing of suit by the plaintiff will be defeated. Further the same may lead to multiplicity of the proceedings. The plaintiff has made out prima facie case in her favour and the balance of convenience lies with the plaintiff. If the application is not allowed, the plaintiff will be put to irreparable injury.

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Thus for these reasons this court is of the considered opinion that the I.A.No. 2 filed by the plaintiff deserves to be allowed.

In so far as I.A.No. 1 is concerned, the fact that the defendant no.1 and 2 have sold the suit schedule item No.1

property in favour of the defendants nos.3 to 5 is not in dispute. When I.A.No. 1 is read in between the lines, it can be inferred that the defendant nos.3 to 5 have already put up construction in the said property. If the defendant nos.3 to 5 further improve the suit schedule item No.1 property, no legal injury or greater hardship will be caused to the plaintiff, as the defendant nos.3 to 5 will be doing so at their own peril subject to the out come of this suit. They cannot seek equity later. Thus this court is of the considered opinion that though the plaintiff has made out prima facie case in her favour,

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the balance of convenience does not lie in her favour. No irreparable injury will be caused to the plaintiff, if I.A.No. 1 is dis allowed. In the light of foregoing discussions, this court proceeds to pass the following

**ORDER**

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

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

Pending disposal of suit, the defendant no.1 is restrained from alienating the suit schedule item No.2 property/ application schedule property to any body in any manner or from encumbering the same.

For plaintiff evidence by  
23.07.2026

Senior Civil Judge & JMFC.,  
Challakere.