

The Learned Counsel for the Plaintiff has filed I.A.No.I under Order 39 Rule 1 and 2 R/w Sec. 151 of CPC praying for exparte Temporary Injunction restraining the Defendant No.2, his men, agents, representatives or anybody claiming through him from sale or alienating the Plaintiff schedule property to the third party till pending disposal of the suit.

Heard. Perused Plaintiff, I.A, Affidavits and the materials available on record.

This Suit is filed by the Plaintiff against the Defendants for the relief of Declaration, Partition and Separate Possession of her share in the Plaintiff schedule property. She has stated that the defendant No.1 and one Sri. Eregowda got two children i.e., defendant No.2 and one Kumaregowda who is her husband. The said Eregowda and her husband are now no more. She further stated that during the life time of Eregowda and Kumaregowda they are in joint and constructive possession

over the Plaintiff schedule property. Further during the life time of their husband there was a partition effected between the defendants and her husband with respect of the Plaintiff schedule property which was registered in the Sub Registrar, Chikkamagaluru. According to the said partition, her husband was allotted with Rs.20,000/-. But, the defendants not given any amount to her and not allotted any property in favour of her husband in the alleged partition. Though her husband requested and demanded his legitimate share in the Plaintiff schedule property, they did not allot any legitimate share in the Plaintiff schedule property. Hence, the Partition deed is not binding on them. Now, the defendants are trying to alienate the Plaintiff schedule property and therefore she has filed the suit for Declaration and Partition

The plaintiff has produced her affidavit in respect of Genealogy, RTC,

Mutation Register Extract, Copy of Partition deed. Upon going through the documents, the RTC stands in the name of defendant No.2 as per Partition deed. Hence, at this juncture it is essential to issue emergent notice to the defendants before passing any ex-parte order on I.A.No.I. Accordingly, I proceed to pass the following :

ORDER

Issue Emergent Notice on I.A.No.I to the defendants and the suit summons to the Defendants, if PF is paid.

Sd/-

Prl. Senior Civil Judge & CJM,
Chikkamagaluru.