

**ORDER ON IA UNDER ORDER 39 RULES 1 & 2 r/w SECTION 151
OF CPC**

The appellants, who are the plaintiffs in O.S.No.15/2011 have preferred this appeal against common judgment and decree passed in O.S.No.1/2011, O.S.No.2/2011 and O.S.No.15/2011 on the file of the Sr. Civil Judge and JMFC., Malur dated 05.02.2020. The appellants have also filed an application under Order 39 Rules 1 and 2 of CPC to pass an ex-parte interim order against the defendants, as the defendants are trying to dispossess them from the suit schedule properties by taking advantage of dismissal of their suit.

2. Heard the arguments and perused the records.

3. It is submitted that the trial Court has also granted an order of temporary injunction against these defendants till disposal of the suit and the appeal being the continuation of the suit, the said temporary order of injunction against the defendants shall have to be

continued in the appeal also. However, no such material is produced along with this appeal to show that there was an interim order against the defendants till disposal of the suit.

4. On perusal of the judgment and decree passed by the trial Court the claim of the plaintiffs/appellants for declaration of their right and title over the suit schedule properties was dismissed. However, the documents produced by the appellants, as well as the observation made by the trial Court in the impugned judgment shows that, the appellants were found to have a right to collect the usufructs of the trees and collection of manure from the suit schedule properties, since the year 1978-79 as reflected from the order passed in R.A.68/1978-79, dated 03.06.1983 by the Special Deputy Commissioner, Kolar District, Kolar. Now, the suit filed by the plaintiffs/appellants is though dismissed and there is no executable decree against them, the possibility of curtailing the rights of the plaintiffs over collecting the usufructs of the trees and manure from the disputed lands is more possible and in that event the accrued right of the appellants over the suit schedule properties will be deprived. Any how, if an ex-parte injunction order is granted against the defendants, the appellants may take advantage of the same and may try to create documents or evidence to show, as if they are the owners and in actual possession and enjoyment of the entire suit schedule properties. This claim of the appellants is already rejected by the trial Court by considering the material on record and comes to a definite conclusion that the plaintiffs/appellants have not produced any material to prove their title over the entire suit schedule properties. But, at the same time the right of the plaintiffs/appellants to collect usufructs of the trees and manure from the lands shall have

to be protected. So, the appellants have made out sufficient grounds to maintain an order of status-quo of the suit schedule lands till the disposal of this appeal. Hence, I proceed to pass the following:

ORDER

The application filed by the appellants/plaintiffs under Order 39 Rules 1 and 2 r/w 151 of CPC is partly allowed.

Both parties are directed to maintain status-quo of the suit schedule properties till the next date of hearing or appearance of the defendants, whichever is earlier.

Issue notice of the appeal and IAs., to the defendants returnable by 07.08.2020.

PRL. DIST. & SESSIONS JUDGE, KOLAR.