

ORDER On IA No.II

The plaintiff has filed the present suit for the relief of declaration, permanent injunction, mesne profits and partition and separation possession with respect of suit schedule properties against the defendants.

2.The plaintiff has also filed application U/o.39 Rule 1 and 2 r/w Sec.151 of CPC and prayed for temporary injunction against the defendant no.1 to 5 from not to alienate and create any documents pertaining to suit schedule properties, till disposal of the suit.

3.The plaintiff has produced genealogical tree, RTCs in respect of plaint schedule property standing in the name Mahadevappa and the plaintiff i.e., Smt.Prema W/o Guruswamy, encumbrance certificate for the year 2022-23, RTC standing in the name of Sri.Basavanna, gift deed dated 07.10.2013 executed by 5th defendant in favor of the plaintiff, copy of orders passed by the Assistant Commissioner Kollegal in proceeding in M.A.G.C.R.94/2022-23.

4. On perusal of the averments made in the affidavit, plaint and documents, it appears that, the plaintiff and defendants are the LR's of Sri.Chennabasappa & Smt. Gowramma and the plaint schedule properties are their ancestral and joint family properties. During the lifetime of Sri.Chennabasappa & Smt.Gowramma there was no partition took place in respect of plaint schedule properties. Hence plaintiff has sought for partition in the plaint schedule properties simultaneously sought for declaration and permanent injunction.

5. On perusal of the documents produced by the plaintiff goes to show that, the 5th defendant has executed gift deed in favor of the plaintiff on 07.10.2013. Later the 5th defendant has filed application before the Assistant Commissioner Kollegal in proceeding in M.A.G.C.R.94/2022-23 by alleging that the plaintiff has fraudulently obtain the signature of the 5th defendant for saying to avail a bank loan and by taking the advantage of said fraudulent gift deed, she has converted the katha in her favor. Hence the Assistant Commissioner sitting in Kollegal has canceled the gift deed. But

the RTCs standing in the both names plaintiff and 5th defendant. On the other hand the defendants have not filed either written statement or objection to the IA no.II. Therefore the plaintiff has not made out prima-facie grounds to grant temporary injunction in her favor. Hence, I proceed to pass the following:-

ORDER

IA no.II filed by the plaintiff Under Order 39 Rule 1 & 2 R/w Section 151 of CPC is hereby dismissed with costs.

For written statement call on 16.03.2026.

The Civil Judge & JMFC.,
Yelandur.