

ORDER ON IA NO. 1

The present application is filed by the plaintiffs U/Or.39 Rule 1 & 2 R/w Sec.151 of C.P.C praying to pass an exparte temporary injunction order restraining the defendant N0:1 to 4, his men, servants, agents, henchmen, representative, etc., and any person claiming under the name of them from alienating the suit schedule properties by way of any mode till disposal of the suit.

2.In the affidavit, the plaintiff No.3 stated that, they filed this suit for partition & separate possession of their share in the suit schedule properties. It is further stated that after the death of Murigemma all the properties were look after by the defendant No.3 and 4. During the month of August-2023 the defendant No.3 and 4 have some misunderstanding in the administration of the suit schedule properties, after getting information they made enquiry and came to know about the partition of the properties were already made in the year 1974 with a registered partition deed which was registered vide SR No. 1063/1973-74 dated 12.06.1973. In those properties the Sy.No.3 measuring 02 acre 15 guntas was sold out by the defendant No.1 and within a span of days purchased the agricultural land in Sy.No.15/2

measuring 02 acre 04 guntas which is situated at Harosagara village, which adjacent to his land property for the convenience to look after and take care of the property. On this partition deed and sale information was not known to them they are all in the prediction that the suit properties were all jointly cultivated and look after by their brothers i.e., defendants. This fact was hidden away by the defendants and also by Late Murigemma, but in her last days whenever they visit the parental house then every time she told them that I told to your brothers to make arrangement of some properties to them as those for Arisina Kunkuma. Further the brothers/defendants never told anything against the words of Late Murigemma. So for that reason all of them were in an optimistic view and have no other thoughts came to mind. After knowing all things they approached defendant No.1 to 4 for their share in the joint family properties. But they have clearly denied to allot the legitimate share.

3. Further stated that the defendant No.1 to 4 taking advantage of the RTC and Khata stands in their name is illegally trying to dispose of the suit schedule properties to the third person with an oblique motive to have a wrongful gain and to cause loss and inconvenience to them. But after getting the information with respect to the illegal agreement to transfer of the suit schedule property. The defendant

No.1 to 4 calling upon him to allot the legitimate share to them. Inspite of many request the defendants have not allotted the legitimate share in the suit schedule properties. Further the defendant No.1 to 4 have not acted in a bonefied manner in respect of allotment of legitimate share to them in respect of the suit schedule properties. Now, the defendant N0:1 to 4 in collusion with each other may alienate the suit schedule properties and accordingly, restraining the illegal act of the defendant N0:1 to 4 is necessary and prayed to allow the application.

4.The defendant N0:1, 3 and 4 being represented through their respective counsels and filed written statement. But not filed objection to I.A.N0:1, the averments made in the affidavit are remained intact. However, the preservation of suit subject matter is paramount consideration. Wherefore, apprehension so made by the plaintiff No.3 in the affidavit is not challenged by the defendants and as such, this court is of opinion that, non-objecting the reasons as well as not filing objection to I.A.N0:1, this court is of opinion that, the plaintiffs have made out grounds for allowing the application. Accordingly, I proceed pass following;

ORDER

I.A.N0:1 filed by the plaintiffs

U/Or.39 Rule 1 & 2 R/w Sec.151 of C.P.C is hereby allowed.

The defendant N0:1 to 4 are hereby restrained from alienating the suit schedule properties till disposal of the suit in any manner.

Hence, case is posted for framing of issues. Call on 02.07.2026.

Senior Civil Judge & JMFC.
Channagiri.