

17.02.2024:

Perused office note stating no caveat pending.

Heard learned counsel for plaintiff on I.A.No.II filed under Order 39 Rule 1 and 2 and Section 151 of C.P.C seeking ex-parte ad-interim injunction restraining defendant No.1 from alienating or encumbering plaintiff schedule properties pending disposal of this suit.

It is submitted that initially, plaintiff 'A', 'B' and 'C' schedule properties belonged to Aminabi, who died intestate leaving behind her 9 children by name Shamshuddin, Hameedabi, Meherunnisa, Nizamuddin, Abdul Rahiman, Dilshad Banu, Tahira Banu, Abdul Rasheed and Buranddin. Amongst the children, at present defendant No.1 and Dilshad Banu are surviving. When things stood thus, the plaintiffs and defendants are the co-sharers of plaintiff 'A' schedule properties. Late Aminabi had

absolute trust and confidence on defendant No.1. Though, plaintiffs and other heirs were requesting defendant No.1 for partition, he was postponing under some other pretext. At present, it is discovered that by exploiting the fiduciary relationship, defendant No.1 - Abdul Rasheed compelled Aminabi to execute sale deed dated 11.01.1982 by fraud, misrepresentation and undue influence. The said document is void and non-est and liable to be ignored. At present, there is apprehension that the opponent – defendant No.1 is likely to create charge or alienate the properties. Hence, I.A. No.II.

Perused the plaint averments and also the documents produced. In the affidavit filed along with I.A.No.II plaintiff No.15 has narrated the factual aspect submitted by the learned counsel.

In the circumstance, if ad-interim injunction restraining alienation is not granted or delayed, it would cause harm to the plaintiffs right and also give rise to multiplicity of proceedings. Hence,

issuance of notice is dispensed. Having regards to the fact that there is a prima facie case at this juncture and if the injunction is not granted, plaintiffs would suffer hardship, I proceed to pass the following:-

**-ORDER-**

Defendant No.1 is restrained from alienating or encumbering plaint 'A', 'B' and 'C' schedule properties till filing of written statement or counter, subject to further extension by this Court.

Plaintiffs shall comply Order 39 Rule 3 CPC.

Issue suit summons and emergent notice of I.A.No.II to defendants by RPAD, returnable by: 02.03.2024.

Senior Civil Judge & J.M.F.C.,  
Moodbidri, D.K.

O.S. No.8/2024