

The plaintiff has filed this suit seeking 1/3rd share in the suit properties and for permanent injunction against the defendant No.1 to 3 from obstructing interference with peaceful possession of plaintiff legal share in the suit property along with common use of staircase etc.

The defendant No.3 is said to have purchased from defendant No.1 and 2 the suit property, without the consent of the plaintiff vide sale deed dated: 14.02.2011. The plaintiff claims that the same doesnot bind the share of the plaintiff. The plaintiff is claiming to the son of defendant No.1. Thus, it is to be noted that a purchaser from kartha is entitled to protect his possession if he is put in exclusive possession of the property under the sale deed, as mentioned in the decision 1996 (2) KantLJ 563 (*Muniyappa Vs. Ramaiah*). Therefore, whether the plaintiff is in actual possession of any separate share out of the suit premises and the common area is to be decided only after hearing the defendants. Without hearing the defendants the nature of the injunction not to interfere with the possession as prayed for cannot be granted. Therefore, it is necessary to hear the defendants before proceeding to pass any order on I.A.I. Hence, the following,

ORDER

Issue emergent notice on I.A. No.I and suit summons to the defendants, returnable by:

I ASCJ & JMFC, Hubballi.