

ORDERS ON I.A.NO.I

This is a suit filed by the plaintiffs against the defendants for the relief of partition and separate possession in respect of the suit schedule property.

The learned counsel for the plaintiff filed an I.A.No.I under Sec.80(2) of CPC seeking an order to dispense the prior notice to the defendant No.3 and 4 who are the Government body. The urgency pleaded in the affidavit annexed to the I.A.No.I is satisfied to the court, moreover, the defendant No.3 and 4 is the formal party, hence, the prior notice to the suit against defendant No.3 and 4 is hereby dispensed with by allowing I.A.No.I.

*I Addl. Senior Civil Judge and
JMFC, Hubballi*

ORDERS ON I.A.NO.II

The learned counsel for the plaintiffs filed an I.A.No.II under Order XXXIX rule 1 and 2 R/w Sec.151 of CPC seeking an order of ad-interim temporary injunction against the defendant No.2, his men, servants or any person or persons claiming under him restraining from alienating the suit schedule

property by the defendant No.2 in any manner, pending disposal of the suit.

On perusal of the entire materials available on record, it is noticed to the court that, this is a suit for partition and separate possession is concerned. On careful perusal of the said affidavit of the plaintiff, it is noticed to the court that the suit property is the portion of the land bearing Block No.543 of Kusugal Village, Hubballi Taluk totally measuring 10 acres 24 guntas. The father of the defendant No.1 i.e., defendant No.2, the defendant No.2 and another brother of defendant No.1 by name Kiran S/o Ashok Gudihal have decided to purchase the portions of the said land in their individual names, as they were secured funds from the income of the family properties. Accordingly, the defendant No.1 has purchased 3 acres 1 gunta on 09.09.2002 by way of registered sale deed. The defendant No.2 has purchased the land to the extent of 4 acres 1 gunta, which is renumbered as block No.543/3 and the another of the defendant No.1-Kiran Gudihal has purchased the land to the extent of 3 acres 22 guntas, which is renumbered as block No.543/1. Hence, the suit property which bearing block No.543/2, measuring 3 acres 1 gunta is the property purchased by the defendant No.2 out of the income derived from the other joint family

properties. The defendant No.1 only with an intention to avoid the share of the plaintiffs in the suit property has illegally gifted out the suit property in favour of the defendant No.2 by virtue of registered Gift Deed dated:21.10.2024. The said gift deed is illegal and not binding on the plaintiffs. The defendant No.2 is having ill intention and he is selling the suit schedule property behind the back without knowledge of the plaintiffs. The plaintiffs are having 1/3rd share each and 2/3rd share jointly in the suit property. In such circumstances, they have filed the present suit.

Anyhow, in this stage the contents of the affidavit sworn by the plaintiffs are presumed to be genuine in order to avoid the defeating the rights of the plaintiffs, it is better to grant interim relief against the defendant No.2 regarding restraining him from alienating the suit schedule property to any body, if the property are alienating to some one purpose of the suit will be defeated and rights of the plaintiffs also curtailed, hence I proceed to pass the following :

ORDER

I.A.No.II filed by the plaintiffs under order XXXIX rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

Consequently, defendant No.2 is hereby restrained from alienating the suit schedule property in favour of third persons.

This order is in force until passing consider order on the same.

Plaintiffs are to comply the order 39 rule 3(a) of CPC.

Issue notice on IA No.II to the defendant No.2 and suit summons to all the defendants.

Call on:14.07.2025.

*I Addl. Senior Civil Judge and JMFC.,
Hubballi.*