

The plaintiff has filed objections to IA Nos.3 and 4. Earlier the plaintiff has obtained ex parte TI order passed on IA No.1 and thereby the defendant Nos.1 and 6 have been restrained from alienating the suit properties by any mode or manner. Subsequently, the defendant Nos.6 and 7 have appeared through their counsel and filed their written statement and also objections to IA No.1 and filed IA No.3 under Order 39 Rule 4 of CPC and IA No.4 under Order 7 Rule 11(a) and (d) of CPC. The plaintiff has filed the suit for partition and separate possession stating that he and defendant No.2 are the children of defendant No.1 and defendant Nos.6 and 7 are the sisters of defendant No.1. During the course of arguments submitted by the learned counsel of defendant Nos.6 and 7, he has mainly focused on the previous suit filed by one Sri.A.S.Renukappa against this defendant No.1 which came to the dismissed. Further he relied on the deposition of this defendant No.1 who got examined as DW.2 in O.S.No.368/2009 in which he has stated that this suit Item No.4 i.e. Sy.No.183/1 measuring 2 acres 29 guntas has been granted to his father Sri.A.N.Siddappa and subsequently his father has gifted the suit Item No.4 in favour of defendant No.6 under the Gift deed dated:21.10.2009 and also admitted that he is one of the attesting witness to the said Gift Deed dated:21.10.2009. In this suit, son of defendant No.1 is claiming that it was a nominal gift

deed whereas his own father who is the defendant No.1 has admitted about the previous proceedings and this suit Item No.4 has gifted in favour of defendant No.6. However at this stage without touching the merits and also IA No.1, 3 and 4, it is just and proper to vacate the ad-interim order in respect of suit Item No.4. Further it appears that the defendant No.1 is sailing with the plaintiff who has taken stand against his previous judicial admissions in O.S No.368/2009. So, considering all these aspects, I made it clear that at this stage, exparte order issued against the defendant Nos.1 and 6 in respect of suit Item No.4 is not sustainable.

At this stage, the learned counsel of plaintiff has submitted that his arguments have not been heard. But the very documents produced by the plaintiff as well as defendant Nos.6 and 7 clearly appears that the defendant No.1 is the father of plaintiff and in this suit though they have disclosed the previous suit filed by Sri.Renukappa against this defendant No.1, but they have suppressed the deposition of this defendant No.1 who has admitted the execution of Gift Deed by his father Sri.A.N.Siddappa in favour of defendant No.6. As the plaintiff has obtained exparte ad-interim order against the defendant Nos.1 and 6 without disclosing the previous Gift Deed which shows conduct of the plaintiff who has not come before the Court with clean hands. Therefore, at this stage, it is not necessary for

this Court to hear the counsel of the plaintiff in respect of suit Item No.4 as I have already made it clear that both parties are at liberty to put-forth their arguments in respect of other properties on IA Nos.1, 3 and 4. With these observations, the exparte order issued against defendant Nos.1 and 6 on I.A. No.1 in respect of suit Item No.4 is vacated.

Call on to hear on IA No.1, 3 and 4.

By. 03.06.2026.

(Kiran Kumar D.Wadigeri)
Senior Civil Judge & JMFC,
Arsikere.