

Order on maintainability of the appeal

The appellants have filed this appeal under Order 41 Rule 1 of CPC against the order passed on IA.No.2 filed by these appellants under Order 1 Rule 10 of CPC. Originally the respondent No.1 has filed the suit before the Trial Court for permanent injunction in respect of the suit properties against the respondent No.1 to 5. During the pendency of the petition, these appellants have filed IA.No.2 before the Trial Court under Order 1 Rule 10 of CPC and same came to be rejected against which these appellants have preferred the appeal under Order 41 Rule 1 of CPC. After plain reading of provision of Order 41 Rule 1 of CPC, the order passed by the Trial Court under Order 1 Rule 10 of CPC is not appealable before this Court and only remedy available for the appellants is to approach the Hon'ble High Court by filing the Writ petition. So, the very appeal under Order 41 Rule 1 of CPC against the said order preferred by the appellants is not maintainable. Hence the appeal is dismissed as not maintainable.

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