

ORDER ON I.A NOS.I & II

Heard on application filed under Order 39 Rule 3 of CPC. Plaintiffs have filed I.A.No.II under Order XXXIX Rules 1 & 2 of CPC seeking to restrain the defendants or anybody claiming under them from interfering into the peaceful possession and enjoyment of the Plaintiffs over the suit schedule property. This Court has perused the materials available on record. At this juncture, this Court is not satisfied to grant exparte interim order as sought by the plaintiffs. Before passing ad-interim order, this Court feels that, hearing the other side on the application is necessary.

Hence, issue emergent notice on IA No.II and suit summons to defendants.

Civil Judge & JMFC,
Holenarasipura.

ORDER ON IA NO.III

This is the suit filed by the plaintiffs against the defendants seeking the relief of Declaration, Permanent injunction over the suit schedule property and rectification of sale deed.

2. The plaintiffs have filed I.A.No.1 under Order XXXIX Rule 3 of CPC seeking to dispense with the issuance of notice to the defendants on I.A.No.III seeking to restrain the Defendants or anybody claiming under them from alienating the suit schedule properties to any one in any manner.

3. In the affidavits annexed to I.A.Nos.I and III, it is stated that, the suit schedule properties situated in Sy.No.91/4 is originally belonging to Mallanna S/o. Balegowda. Said Mallanna has died. The Defendants No.1 to 8 are his legal heirs. On 03.03.1956 Shanthaiah S/o. Muddu Mallegowda who is the propositus of family of Plaintiffs have purchased 32½ guntas in Sy.No.91/4 from said Mallanna. As per the said sale deed Shanthaiah was in possession of the said property as the absolute owner till his death by growing various crops. After his death, the Plaintiffs are in possession of the same without any interference from any one. While executing the sale deed the survey number is wrongly mentioned. Around 6 months ago the Defendants No.4, 6 and 8 have got subdivided the property including 32½ guntas which the plaintiffs are in possession. On verification of revenue documents pertaining to the suit schedule property it is noticed that, the Defendants have got illegally changed the

khatha of suit schedule property. Afterthat, the Plaintiffs requested the Defendants to rectify the said mistake in the sale deed. Now by taking undue advantage of the fact that, the khatha is standing in the name of the Defendants, they are trying to alienate the suit schedule property. If they alienates the same the Plaintiffs would be put to irreparable loss and injury. Therefore, the defendants have to be restrained. On these grounds, the plaintiffs pray to allow I.A.No.1 and to dispense with the issuance of notice to defendants on I.A.No.III and also to grant ex-parte temporary injunction restraining defendants or anybody acting on their behalf from alienating the suit schedule property to anyone in any manner.

4. Perused the pleadings and documents filed by the plaintiffs. The plaintiffs have made out *prima-facie* case against the defendants. Therefore, at this stage on considering the facts and circumstances of the case, it is necessary to allow I.A.No.I. If, I.A.No.I is not allowed, the object of granting the injunction would be defeated by delay. It is also necessary to grant ex-parte temporary injunction in favour of the plaintiffs in order to protect their right and property. Hence, this Court proceed to pass the following:

ORDER

I.A No.I filed by the plaintiffs under Order XXXIX Rule 3 of CPC is hereby allowed and the notice to defendants at this stage for the purpose of granting ex-parte temporary injunction is exempted.

Issue Ex-parte temporary injunction restraining the defendants or anybody acting on their behalf from alienating the suit schedule property to anyone in any manner till the next date of hearing.

The plaintiffs are hereby directed to comply the mandate of order XXXIX Rule 3 of CPC and shall report such compliance in the office. Office to issue the copy of this Order to the plaintiffs.

Issue emergent notice on I.A.No.III and suit summons to defendants, if sufficient P.F. is paid returnable by 1502.2025.

Civil Judge and JMFC.,
Holenarasipura