

Exparte Order on I.A.No.I

The learned counsel for plaintiff has filed present suit against defendants, for the relief of partition and separate possession of suit schedule property, along with the plaint, plaintiff has also filed I.A No.I Under Order 39 Rules 1 and 2 r/w Sec.151 of C.P.C, seeking ad interim ex-parte order to defendants No.1 to 5 or their agents or servants etc., by restraining from not to alienate or encumber the Suit schedule properties, pending disposal of the suit.

2. Heard. Perused I.A No.I, annexed affidavit, plaint and documents produced by the plaintiffs at this stage.

3. In the affidavit annexed to the application, it is stated that the plaintiff know the facts of the case. Hence he is swearing to this affidavit. The averments made in Memorandum of plaint may be read as part and parcel of this affidavit. Further stated that plaintiff is the grandson of the Late Puttappa and defendants are the sons of Late Puttappa, the defendant No.1 is the father of plaintiff. Further stated that the Suit schedule properties are ancestral properties of plaintiff and defendant No.1 and 2, the said property acquired from derived income from the joint family funds and 2nd defendant/Karta of the joint family, is elder son of Puttappa has mutated the revenue entries in his name taking undue advantage of the said revenue entries and also not having worldly knowledge of the 1st defendant trying to sell the suit items of the joint family properties without having any exclusive right, interest over the Suit schedule properties. Further stated that plaintiff is entitle for 1/3rd legimate share over the said properties. Further stated that even though plaintiff requested and demanded the defendants to effect the partition of 1/3rd share each over the Suit schedule properties and several panchayath was also held all the efforts were went in vain, plaintiff submit that if the defendants colluded each other and suppressing the real facts to the third parties, only on the basis of the revenue entries alienate the items of the Suit schedule properties in favour of third parties. If the defendants have not restrained then plaintiff will be put into great loss and hardship. Hence this application.

At this juncture, on perusal of the averments of the plaint as well as the affidavit annexed to the I.A and also documents produced by the plaintiff, there is prima facie materials for grant of ex-parte TI as sought by plaintiff, and in case, if ex-parte TI is not granted and if

the defendants not to alienate, encumber the suit schedule properties during the pendency of the suit, as apprehended, then the very purpose of filing this suit would be frustrated besides depriving the valuable rights of the plaintiff. Hence, I proceed to pass the following:

ORDER

Ex-parte T.I is granted.

Issue an ex-parte order of temporary injunction restraining the defendants No.1 to 5, their agents, servants or anybody acting on their behalf from in any manner not to alienate, encumber the suit schedule properties to anybody, till the next date of hearing.

The plaintiff shall comply the provision of Order 39 rule 3 of C.P.C.

No certified copy shall furnished unless compliance is made.

Issue notice on I.A.No.I to defendants No.1 to 5 and suit summons to the defendants No.1 to 5, if P.F. paid.

Returnable by: 21.01.2021.

**Civil Judge and JMFC,
Shiggaon.**

