

ORDERS ON IA NO- 1

1) This application is filed by plaintiff U/O: 39 R 1 & 2, R/w Sec.151 CPC, with a prayer to restrain the defendant No-1, 2, 4, 6 & 7 from alienating suit schedule properties till disposal of the suit in the interest of justice and equity.

2) It is stated in the accompanying affidavit that, suit properties are ancestral properties of plaintiff and defendants. Propositus Ningappa died on 31-12-2010 and his wife Fakkiravva died on 05-06-2011. The defendant No-1, 2, 4, 6 & 7 taking advantage of the fact that, plaintiff is residing at Harapanahalli Taluka, without his consent or knowledge, colluded with revenue authorities and got entered their names. Now they are attempting to alienate the properties with an intention to defeat the rights of plaintiff. If they are succeeded, plaintiff would put to great hardship which cannot be compensated in terms of money. It also leads to multiplicity of the litigation. Hence, this application.

3) In support of IA No-1 plaintiff has produced RTC extracts, mutation extracts, genealogy and death certificates of Basappa and Fakkiramma.

4) Perused the application and the annexed documents. Heard the applicant.

5) The points that would arise for my considerations are as follows :-

POINTS

1] **Whether plaintiff/applicant has made out sufficient grounds to grant ad-interim temporary injunction as prayed?**

2] **What order?**

6) My findings on the above points are as under :-

Point No-1 : In the Partly Affirmative.

Point No-2 : As per final order, for the following,

REASONS

7) **Point No-1 :-** The genealogy produced support the relationship between plaintiff and defendants. As per ME No-25/2011-12 khata of the S.No-22/1B mutated in favor of defendant No-1, 2, 4, 6 & 7 by way of inheritance. The RTC extracts of suit item No-1 and 2 khata has been mutated in favor of defendant No-1, 2, 4, 6 & 7 by way of inheritance. No document produced to show the existence of suit item No-3 with the family. As per affidavit, plaintiff and defendants constituted the joint family. If defendant No-1, 2, 4, 6 & 7 alienates suit item No-1 & 2, would cause great hardship to plaintiff and also leads to multiplicity of the proceedings. It is just and necessary to preserve the suit item No-1 & 2 without being alienated. Hence, this is a fit case grant ad-interim temporary injunction.

Accordingly, I answer this point **in the Partly Affirmative.**

8) Point No-2 :- In view of the above discussion, I proceed to pass the following:

ORDER

IA No-1 is allowed in part.
The defendant No-1, 2, 4, 6 & 7 are restrained from alienating the suit item No-1 & 2.

IA No-1 dismissed against suit item No-3.

Plaintiff shall comply order 39 Rule 3 of CPC. If complied, issue an order of temporary injunction against the defendant No-1, 2, 4, 6 & 7 .

Issue suit summons and notice of IA No-1 along with this order to defendant No-1, 2, 4, 6 & 7 .

Issue suit summons to defendant No-3 through register post and defendant No-5 through court.

Plaintiff shall furnish sufficient copies and pay required process fees.

This order will be in-force till next date of hearing. If plaintiff fails to comply order 39 Rule 3 of CPC and to take necessary steps, this order will not be extended.

Call on : 28-01-2019.

(Sri. S. Mahesh)
IInd Addl. Senior Civil Judge,
Ranebennur.