

Case called out.
Plaintiff absent.

**ORDER REGARDING GRANT OF EX-PARTE AD-INTERIM TEMPORARY
INJUNCTION**

The applicant/plaintiff has filed IA No.I under Order XXXIX, Rule 1 and 2 of Civil Procedure Code praying for grant of ad-interim ex-parte temporary injunction for restraining the defendant from alienating or transferring the suit land or creating any type of charges or encumbrance over the same till disposal of the suit.

IA No.I is supported with an affidavit duly sworn by applicant/plaintiff. It is stated in the affidavit that plaintiff has become the absolute owner of the suit land by virtue of inheritance and succession of class-II legal heir of Sri Channabasappa who was the original owner of suit land. It is further stated that he is possession and enjoyment of the suit land. It is further stated that defendant though having no manner of right or title or interest or possession over the suit land, illegally got mutated his name in the suit land by creating certain documents and denying his title and causing obstruction and interfering with his possession and hence the present suit is filed for declaration of title and consequential relief of permanent injunction. It is further stated that, now the defendant is trying to alienating or transferring the suit land or creating any type of charges or encumbrance over the same and hence IA No.I is filed. It is further stated that, grant of temporary injunction is necessary for avoiding multiplication of proceedings or otherwise very purpose of filing the suit will be defeated and prayed for grant of temporary injunction.

Admittedly, the present suit filed by the plaintiff seeking for the relief of declaration of title, for further declaration that the registered Will dated 27-04-1993 is null and void and not binding on the plaintiff and consequential relief of permanent injunction stating that he became the absolute owner of suit land by virtue of inheritance and succession as class-II legal heir of Sri Channabasappa S/o Basappa after his death and also after the death of his two wives and he in lawful possession and enjoyment of the suit land, but also defendant is denying his title and causing obstruction with his possession basing on the creating Will. The documents placed on record from the plaintiff side apparently shows that plaintiff is the class-II legal heir of original owner and he became the absolute owner of the suit land by virtue of inheritance and succession. They further show that defendant is illegally causing obstruction and interfering with the plaintiff possession of the suit land. By looking to the facts and

circumstances of the case the apprehension of the plaintiff is well founded. If at all the defendant is alienated or transferred the suit land or created any type of charges or encumbrance over the same certainly it multiplies the proceedings and in that event hardship and inconvenience will be caused to the plaintiff. Granting of temporary injunction is to preserve the suit property intact during pendency of suit and thereby the succeeding party can easily enjoy the fruits of the decree. Hence, I am of the opinion that, in order to avoid the all these complexities grant of temporary injunction is necessary in this case. Hence, I proceed to pass the following:

ORDER

The defendant is hereby restrained from alienating or transferring the suit land or creating any type of charges or encumbrance over the same by way of ex-parte ad-interim temporary injunction.

This order will be in force till filing of written statement and objection to IA No.I.

The plaintiff is directed to comply the mandatory provision of Order XXXIX, Rule 3 (a) of Civil Procedure Code.

Issue certified copy of TI if mandatory provision of Order XXXIX, Rule 3(a) of Civil Procedure Code.

Issue notice of IA No.I and suit summons to defendant.

Returnable by: 22-04-2019.

**(KUMARA G.)
SENIOR CIVIL JUDGE & JMFC,
JEWARGI.**