

Case called out.  
Plaintiffs absent.  
Heard Sri BBB, Advocate for  
plaintiff.

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

The applicants/plaintiffs have filed IA No.II 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 No.1, 5, 9 to 12 from alienating or transferring or mortgaging or creating any type of charges or encumbrance over the suit lands till disposal of the suit.

IA No.II is supported with an affidavit duly sworn by applicants/plaintiffs. It is stated in the affidavit that plaintiffs and defendants are the members of Hindu undivided joint family, suit schedule properties are the joint family properties and all are having undivided interest there in and partition is not taken place so far. It is further stated that the defendants illegally got mutated there names in the suit lands behind back and without the knowledge of plaintiffs and hence they have demanded for partition, for which defendants refused to effect the partition and hence the present suit is filed. It is further stated that, now the defendant No.1, 5, 9 to 12 are trying to alienate the suit lands and hence IA No.II 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 plaintiffs seeking for the partition and separate possession in the suit lands against the defendants who are their close relatives. The documents show that suit lands inherited to the plaintiffs and defendants from their ancestors, but only the names of defendants have been mutated in the revenue records. It appears that plaintiffs and defendants are the members of Hindu joint family; suit lands are the joint family properties; all are

having undivided interest and partition is not taken place among the members of joint family, but also only the names of defendants have been mutated. By looking to the facts and circumstances of the case the apprehension of the plaintiff is well founded and defendant No.1, 5, 9 to 12 may alienate the suit lands by taking advantage of their names in the revenue records. If at all the defendant No.1, 5, 9 to 12 have alienated the suit lands, certainly it multiplies the proceedings and in that event hardship and inconvenience will be caused to the plaintiffs. Granting of temporary injunction is to preserve the suit lands 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 No.1, 5, 9 to 12 are hereby restrained from alienating or transferring or mortgaging or creating any type of charges or encumbrance over the suit property 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.1 by defendant No.1, 5, 9 to 12 .***

***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 to defendant No.5; suit summons and notice of IA No.II to defendant No.1, 5, 9 to 12 and only suit summons to defendant No.2 to 4 and 6 to 8 .***

***Returnable by: 25-05-2021.***

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

**JEWARGI.**