

IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT SEDAM

PRESENT:

SRI.SAGAR GURUGOUDA PATIL

Senior Civil Judge & JMFC., Sedam ^{B.A., LL.B(Spl).}

DATED THIS THE 4th DAY OF JULY-2023.

ORIGINAL SUIT No.13/2022.

PLAINTIFFS:

Shreya & others

(Adv. for plaintiffs by Sri.S.K.D.)

(V E R S U S)

DEFENDANTS:

Tippanna and others

(Deft.1 to 4 by Sri.H.L.A. Advocate)

(Deft.5 & 6 by Sri. B.T. Advocate.)

(Deft.7 by Sri.B.S.S. Advocate)

(Deft.8 Exparte)

(Deft.9 & 10 by Sri.S.B.M. Advocate)

I.A.No.III

Shreya & others

Applicants/Plaintiffs

//Versus//

Tippanna & others

Opponents/Defts

ORDER ON I.A.No-III U/Section 151 of CPC

The plaintiffs have filed this application U/s.151 of CPC and sought to direct the Tahasildar Sedam to create charge over the suit lands for the maintenance of the plaintiffs 1 to 3..

2. The plaintiff No.3 has sworn to an affidavit in support of IA No.3 and stated that she is the legally wedded wife of defendant No.1. they have filed the suit for partition and separate possession and for maintenance. The defendant No.1 in order to deprive the plaintiffs from getting their valuable rights is trying to sell the suit lands. If he alienates the suit lands it would be very difficult for the plaintiffs to recover the maintenance amount. Hence prays to allow the IA.

3. After service of suit summons the defendant No.1 has appeared through his counsel and filed his written statement. But he has failed to file objections to IA No.3.

4. In his written statement the defendant No.1 has denied the entire plaint averments. He has contended that the suit schedule properties are his self acquired properties.

5. Perused the records. Heard arguments.

6. On the basis of the above rival contentions the following points arise for my consideration:

1. Whether the plaintiffs have made out a case to create charge of maintenance over the suit lands?
2. What Order?

7. My findings to the above points are as under:

Point No.1: In the Affirmative.

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

REASONS

8. Point No.1: The plaintiffs have filed this suit for the relief of partition and separate possession and for declaration that the sale deeds dated 15.3.2012 , 23.8.2012 and 8.10.2021 are null and void and not binding on the plaintiffs and for maintenance. The plaintiffs have alleged that the defendant No.1 is the husband of the plaintiff No.3 and plaintiffs 1 and 2 are daughters of one late Siddappa who is son of plaintiff No.3 and defendant No.1. They have further alleged that the suit schedule properties are the ancestral and joint family properties of the plaintiffs and defendant No.1. the plaintiffs are having share in

the suit properties. The defendant No.1 in his written statement has denied the entire plaint averments and contended that the suit schedule properties are his self acquired properties.

9. The records reveal that it is to be noted that this Hon'ble court has already passed orders on IA No.1 restraining the defendant No.1 from alienating the suit schedule properties. Further this court has also passed orders on IA No.2 directing the defendant No.1 to pay monthly interim maintenance of Rs.2,000/- each to the plaintiffs. These two orders at this stage prima facie show that the plaintiffs are having right of maintenance against the defendant No.1 and his properties. Therefore if the charge is not created on the suit lands and the defendant No.1 alienates the suit properties it would become very difficult for the plaintiffs to recover the interim maintenance amount. On the other hand if charge is created on the suit lands till disposal of the suit no loss or hardship would be caused to the defendant No.1 as this court had already passed orders against the defendant No.1 restraining him from alienating the suit lands. Hence this court finds it just and necessary to create charge over the suit lands. Hence, I answer point No.1 in the Affirmative.

10. Point No.2: For the foregoing reasons, I proceed to pass the following:

ORDER

The application filed by the plaintiffs U/Section 151 CPC is hereby allowed.

Charge is created over the suit lands for the maintenance of the plaintiffs.

The Tahasildar Sedam is hereby directed to mention in the column No.11 of the RTC Extract of the suit lands that "this property is charged as per the orders of the Senior Civil Judge and JMFC Sedam in O.S.No.13/2022 towards the maintenance of Rs.6,000/- per month".

(Dictated to the Stenographer directly on computer and corrected, signed and then pronounced by me, in the open Court on this the **4th day of July-2023**, at Sedam)

(Sagar Gurugouda Patil)
Senior Civil Judge & JMFC.,
Sedam.