

25.1.2025

Exparte T.I. Order on IA No.I.

The plaintiff has filed this application U/O 39 rule 1 and 2 of CPC and sought to restrain the defendants by way of exparte temporary injunction from alienating the suit properties till disposal of the suit.

The plaintiff has sworn to an affidavit in support of IA and stated that one Mohiyoddin was main ancestor of the plaintiffs and defendants 1 to 6. The suit land was standing in the name of said Mohiyoddin who died leaving behind him his wife, sons and daughters i.e., defendants 1 to 6 and plaintiff. The defendants 7 and 8 are strangers to the family of the plaintiff and defendants 1 to 6. The plaintiff and defendants 1 to 5 are the heirs of deceased Mohiyoddin. They are in possession of the suit properties as tenants in common.

Such being the facts the defendants 1, 7 and 8 without consent and knowledge of the plaintiff got created sale deed dated 22.11.2019 and again defendants 1 to 6 in collusion with defendant No.8 got created illegal sale deed dated 3.1.2025 in favour of defendant No.8. The said sale deeds are not binding on the plaintiff. The plaintiff is having share in the suit properties. The defendants are trying to alienate the suit properties. Hence, prays to allow the IA.

Perused the records. Heard arguments.

The previous RTC extracts show that earlier the suit properties were standing in the name of one Mohiyoddin who is ancestor of the plaintiff and defendants 1 to 6. Therefore, at this stage it appears that the suit properties earlier belonged to said Mohiyoddin. Whether the defendant No.1 was competent to sell the suit properties in favour of defendant No.8 has to be decided only after the trial. Until then the suit properties has to be kept in tact. Therefore, at this stage the defendants are not restrained from alienating the suit schedule properties and if they alienate the suit schedule properties during pendency of the suit it will cause much inconvenience to the plaintiff. Therefore, at this stage the plaintiff has made out prima facie case and balance of convenience lies in her favour. Hence the following:

ORDER

The defendants are hereby restrained by way of ex parte temporary injunction from alienating the suit properties till next date of hearing.

The plaintiff shall comply Order 39 Rule 3 of CPC.

Office to issue IA notice, TI notice and suit summons to defendants.

The plaintiff shall pay deficit process fee if any within three days from today, failing which this order stands vacated automatically.

Returnable by 12-03-2025.

Senior Civil Judge & JMFC, Sedam.