

25.6.2024

Exparte T.I. Order on IA No.1.

The plaintiff has filed this application U/O 39 rule 1 and 2 of CPC and sought to restrain the defendants 3 and 4 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 the plaintiff is the daughter of defendant No.1 and defendant No.2 is son of defendant No.1. The defendant No.3 is the wife of defendant No.2. The plaintiff and defendants 1 and 2 are Hindu joint family members. The suit properties are ancestral and joint family properties of the plaintiff and defendant No.1. The defendant No.4 is purchaser of suit item No.1. The defendant No.2 executed gift deed in respect of suit properties in favour of his wife-defendant No.3. The father of plaintiff Hanamanthrao Patil died long back. Earlier the suit properties were standing in his name. The defendant No.2 gifted the suit properties to the defendant No.3 under the registered Gift deed and the said gift deed is null and void and not binding on the plaintiff. The defendant No.3 and 4 are trying to alienate the suit properties. Hence, prays to allow the IA.

Perused the records. Heard arguments.

The RTC extracts from the year 1988-89 to 1997-98 show that the earlier suit item No.1

property was standing in the name of father of plaintiff and defendant No.2 and husband of defendant No.1 Hanamanthrao Patil. The same prima facie shows that after the death of the said Hanamantrao Patil the plaintiff and defendants 1 and 2 succeeded the suit item No.1 property. Therefore, whether the defendant No.2 was competent to gift the suit property to defendant No.3 has to be decided during the trial. Further the validity of the sale deed executed by defendant No.3 in favour of defendant No.4 also has to be decided during the trial. Hence, in my opinion at this stage the plaintiff has made out prima facie case. If at this stage the defendants 3 and 4 are not restrained from alienating the suit properties and if they alienate the suit 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. The plaintiff has not produced any documents pertaining to suit house property. Hence, this court find it proper to pass exparte interim order only in respect of suit item No.1 landed property. Hence the following:

ORDER

The defendants 3 and 4 are hereby restrained by way of exparte temporary injunction from alienating the suit item No.1 property till next date of hearing.

The plaintiff shall comply Order 39 Rule 3 of CPC.

Office to issue IA notice, TI notice to defendants 3 and 4 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 31.7.2024.

Senior Civil Judge & JMFC, Sedam.