

20.11.2024.

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 defendant No.3 and 4 by way of exparte temporary injunction from alienating the suit property till disposal of the suit.

The plaintiff has sworn to an affidavit in support of IA and stated that one Sayanna was the common ancestor and owner of the suit land. During his lifetime only his son Mutteppa died and therefore the suit property was directly mutated in the name of defendant No.1 who is grand son of the said Sayanna. The suit is ancestral and joint family property of the plaintiff and defendants 1 and 2. The defendant No.1 sold the suit property to defendants 3 and 4 through registered sale deed dated 24.7.2024 without knowledge to the plaintiff and without any legal necessity in the joint family. Now the defendants 3 and 4 are trying to alienate the suit property. Hence prays to allow the IA.

Perused the records. Heard arguments.

The revenue records of the year 1958-59 shows that previously the suit property was standing in the name of common ancestor Sayanna and thereafter mutated in the name of defendant No.1. The same prima facie shows that the suit

property is ancestral and joint family property of the plaintiff and defendants 1 and 2. The certified copy of the registered sale deed dated 22.7.2024 shows that the defendant No.1 sold suit property to defendants 3 and 4. Whether defendant No.1 alone was competent to alienate the suit property and whether there was a legal necessity in the joint family or not has to be decided during the trial. Therefore, at this stage the plaintiff has made out prima facie case.

If TI order is not granted and the defendant No.3 and 4 alienate the suit property to the 3rd parties it will cause loss to the plaintiff. But the defendant No.3 and 4 are restrained for some period no loss would be caused to them. Therefore the balance of convenience lies in favour of the plaintiff. Hence the following,

ORDER

The defendant No. 3 and 4 are hereby restrained by way of ex parte temporary injunction from alienating the suit property till next date of hearing.

The plaintiff shall comply Order 39 Rule 3 of CPC.

Office to issue IA notice, TI notice to defendant No.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 19.12.2024.

Senior Civil Judge & JMFC, Sedam.