

ORDER ON IA-I

The plaintiff has filed the present suit against the defendants for partition and separate possession.

IA No.I filed under Order XXXIX Rule 1 and 2 read with Sec.151 of CPC restraining the defendant No.2, 3 & 5, their agents, servants and any person claiming under them from alienating the plaint 'A' schedule properties till disposal of the suit.

Heard,

Perused the plaint averments, affidavit annexed to IA No.I and documents such as RTC Extracts and MR Extracts. It is specifically contended that, the plaintiffs and defendants constituted members of Hindu un-divided joint family and plaint 'A' and 'B' schedule properties are their ancestral joint family properties. There was no partition in respect of plaint 'A' and 'B' schedule properties. Now, the

defendant No.2, 3 & 5 are trying to alienate the plaint 'A' schedule properties to deprive the share of the plaintiff.

On perusal of genealogy shows that the plaintiff and defendants are the coparceners. A perusal of RTC and MR extracts shows that the plaint 'A' and 'B' schedule properties are the joint family properties of the plaintiff and defendants. The plaintiff being coparcener entitled to equal share in the plaint 'A' and 'B' schedule properties. The plaintiff expressed the apprehension of alienation of the plaint 'A' schedule properties by the defendant No.2, 3 & 5. In view of above, I am of the opinion that, the plaintiff has got triable case at this stage. If an injunction is not granted before issuing notice, the defendant No.2, 3 & 5 may alienate or create charge over the plaint 'A' schedule properties. In such circumstances, the plaintiff will be put to irreparable loss and hardship and object of granting ad-interim temporary injunction will be

defeated by delay and to preserve the plaint 'A' schedule properties intact and to avoid further complication and multiplicity of proceedings, notice is dispensed for the time being and I proceed to pass the following:

ORDER

Consequently, ex-parte ad-interim temporary injunction is granted against the defendant No.2, 3 & 5 restraining from alienating or creating charge over the plaint 'A' schedule properties till next date of hearing.

Issue ad-interim ex-parte temporary injunction order to the defendant No.2, 3 & 5 after complying the provision of Order 39 Rule-3 of C.P.C.

Issue suit summons to the defendants and emergent notice on I.A No.1 to the defendant No.2, 3 & 5.

Returnable by:

C/c Addl. Civil Judge & JMFC.,
Kushtagi.