

OS 190/2025

Case called out. Learned counsel for plaintiff present.

Heard learned counsel for plaintiff on IA No.1.

Perused the documents filed along with suit.

The present suit is filed for partition and separate possession along with other reliefs.

The plaintiff filed IA No.1 U/o 39 rule 1 and 2 of CPC seeking temporary injunction against the defendants No.1, 3 and 5 restraining them from alienating or creating any encumbrance over the suit schedule

properties till disposal of the suit. He has produced copies of revenue records and other documents along with the suit.

Learned counsel for plaintiff prays for ex parte interim temporary injunction against the defendants No.1, 3 and 5 as the matter is urgent as they are trying to alienate the suit schedule properties immediately.

On perusal of the materials placed on record, it is forthcoming that the plaintiff has claimed that suit schedule properties are ancestral properties of herself and defendants No.1, 3 and 5, and therefore he has got share in the properties. He further claims that there exists threat of alienation of the suit properties by the defendants No.1, 3 and 5. The plaintiff is claiming right over suit schedule properties as coparcener. Therefore, there exists prima-facie case in favor of the plaintiff at this stage against the defendants No.1, 3 and 5. Further he alleges that the defendants No.1, 3 and 5 are trying to alienate the suit schedule properties. Therefore, if temporary injunction is not granted at this stage, the very purpose of filing the suit would be defeated and it would lead to multiplicity of the proceedings.

As per order 39 rule 3 before granting temporary injunction, notice has to be served on the opposite side. However, in cases of emergency and where it appears to the court that the object of granting injunction would be defeated by delay, which may be caused in serving notice to

the opposite party on the application, the court can dispense with the notice to the opposite party before granting injunction. In the instant case there appears emergent situation and, if notice is order to be served on the defendants No.1, 3 and 5 before granting injunction, the very purpose of filing the suit would be defeated and it would lead to multiplicity of proceedings. Therefore, it is necessary to restrain the defendant No.1 at this stage through exparte interim order of the court on exercising discretionary power vested with this Court. Hence, this court deems fit to pass the following:

ORDER

The defendants No.1, 3 and 5 are hereby restrained from alienating suit schedule properties till next date of hearing.

The plaintiff to comply order XXXIX Rule 3(a) of CPC.

Issue notice on I.A.No.1 and suit summons to defendants No.1, 3 and 5 r/by:
24.10.2025

I Addl., Senior Civil Judge & JMFC.,
Maddur.

