

The plaintiff has filed this suit against defendants for the relief of partition and separate possession in respect of the suit schedule property. The plaintiff has filed I.A. No.1 Under Order 39 R. 1 and 2 r/w Sec. 151 of CPC for grant of ad-interim temporary injunction as not to alienate the suit schedule property till the disposal of the suit.

Perused the plaint averments, affidavit, I.A. No.1 and connected documents.

Heard arguments of the learned counsel for the plaintiff. The court satisfied with the reasons stated in the affidavit.

On perusal of the materials on records, plaint averments, genealogical tree, RTC grama panchayath office information, Form No.19, xerox copy of sale deed, death certificate, Aadhaar card, which ample clear that, plaintiff has made out prima-facie case to go for the trial. If an order of injunction is not granted on I.A. No.1 the purpose of the filing

the suit would not serve to the plaintiff.

The court noticed that, the property disputes within the families could be emotionally charged and legally complex. In this case the dispute revolves around ancestral and joint family properties, with the plaintiff seeking injunction from not to alienating the properties or creating encumbrances until the suit is resolved.

The plaintiff in this case alleged that it is suit for partition and separate possession and further alleged that, the properties were ancestral and joint family assets. .

Upon examining the material on record, including properties involved. This court observed that, the question of whether the properties were acquired or joint family properties could only be determined through a full fledged trial. This court noted that granting injunction prevents the properties alienation and thus it avoids the proliferation of legal proceedings.

This court also noticed that if the suit schedule property are sold to third parties, it would be challenging and difficult to secure proper parties. Granting injunction is not a blanket order, it is incumbent of court in protecting injuries to the parties and to abide balance of convenience in favour of granting injunction to them.

Rule -1 primarily concerns with preservation of the property in dispute till legal rights are adjudicated. Injunction is a judicial process by which a party is required to do or to refrain from doing any particular act. It is the nature of preventive relief to litigant to prevent future possible injury. In the other words the court in exercise of the power of granting ad-interim injunction is to preserve the subject matter of the suit in the statusquo for the time being.

Consequently this court found a prima-facie case and balance of convenience in favour of granting injunction.

As per citation relied in Smt. Ramya V/s Smt. Hemavathi the Hon'ble High Court of Karnataka held that, if the case highlights the complexities surrounding property disputes with in joint families and the significance of establishing a prima face case during legal proceedings. The court decision to maintain the injunction order emphasizes importance of preserving the statusquo untill a final determination is made regarding the properties ownership and division.

On perusal of plaint averments and photos produced on last date of hearing its reveals that the property is getting damaged .Hence this court come to conclusion that, plaintiff would suffer irreparable injury if injunction as prayed is not granted and plaintiff would surffer far grater irreparable injury or serious mischief if an order of injunction is not granted as compared to the injury likely to cause to the defendants an order of injunction.

The plaintiff has made out prima facie case for grant of ad-interim order of temporary injunction against the defendants as prayed for. If the temporary injunction is not passed in favour of the plaintiffs, the purpose of filing this I.A. No.1 would be defeated and hence notice on this I.A. No.1 has to be dispensed with. Accordingly, following order is passed. Hence, I.A. No.1 is allowed and I proceed to pass the following:-

ORDER

As per I.A.No.I defendants, thier agents, servants or anybody are hereby restrained from not to alienate, the suit schedule properties in any manner till the next date of hearing.

Plaintiff shall comply with the provision contemplated under Order 39 Rule 3(a) of C.P.C.

Issue T.I. Notice of I.A.No.I and suit summons to the defendants.

Returnable by: 23.12.2024

Addl. Civil Judge & J.M.F.C.,
Malavalli.