

ORDERS ON I.A.NO.1 U/O 39 RULE 1 AND 2
R/W/S 151 OF CPC

This application is filed by plaintiff with a prayer to restrain the defendants from alienating the suit schedule properties by way of ad-interim temporary injunction, till disposal of the suit in the interest of justice and equity.

2. It is stated in the annexed affidavit that, plaintiff and def. no.1 to 7 are joint family members and suit schedule properties are in joint possession and enjoyment by plaintiff and defendants. The original propositor one E. Javaregowda @ Krishnegowda and his wife Leelavathamma had two male childrens and 4 female childrens. Out of four female children one Hemalatha was no more. She died on 26.06.2014 by living her Lr's. The plaintiff is son of deceased Hemalatha he is only sole legal heirs of deceased Hemalatha. The 1st defendant is a grand mother to plaintiff. Defendant No.2 to 6 are children's of defendant No.1. Defendant No.7 is a daughter in law of defendant No.1 and wife of 3rd defendant. Plaintiff and def. No.1 to 7 are members of Hindu joint family and suit schedule properties are ancestral and joint family properties of plaintiff and def. No.1 to 6. suit schedule properties originally inherited by original propositor one Late. E. Javaregowda @ Krishnegowda. After his death 1st defendant got transfer katha on the basis of pouthi.

3. The defendant No.3 being elder male member in the family he is well educated and he known entire family affairs. He managed joint family has kartha. Suit schedule A item and item No.6 purchased in the name of defendant No.3 out of joint family income and B suit schedule item No.1 property purchased in the name of defendant No.1 and it is converted for the purpose of non agricultural purpose. The defendant No.1 to 6 are colluded each other and trying to create Revenue records in their favour as their will and wish. There is no partition taken place in the family of plaintiff and defendants. The plaintiff is a co-parcener. He requested to allot his legitimate 1/7th share in suit schedule properties, but that one or other reasons. The defendant refused to effect partition. Therefore, he requested for consider the present application in the ends of justice and equity. Otherwise, it will more harm and injury would caused to plaintiff then defendants. They have constituted joint Hindu family. Suit properties are the ancestral and joint family properties of the plaintiff and the defendants. The defendants have got katha mutated illegally and attempting to alienate the suit properties with an intention to defeat the rights of the plaintiff. Accordingly, prayed to allow the application.

3. Heard the advocate for plaintiff on I.A.No.1. Perused the plaint, I.A.No.1, annexed affidavit and the documents.

4. Perused the records. It appears that the suit schedule properties are originally belongs to one

propositor E. Javaregowda @ Krishengowda. The defendant No.1 is a wife of said E. Javaregowda @ Krishnegowda. After the death of E. Javaregowda @ Krishnegowda. Suit schedule properties are got transferred in the name of def. No.1. Defendant No.2 to 6 are childrens of defendant No.1. Defendant No.7 is wife of def. No.3 and daughter in law of defendant N.o.1 the present plaintiff is a son of one deceased Hemalatha. The said deceased Hemalatha is a daughter of E. Javaregowda @ Krishnegowda and Leelavathamma. Further it indicates from G. Tree and death certificate. The deceased Hemalatha had died on 26.06.2014 and her husband also no more. Deceased Hemalatha had two sons. Another son by name Gowtham M.S. was died on 29.04.2021. So as per documents placed before this court at this stage. Plaintiff is only sole legal heir of deceased Hemalatha. She being daughter of original proposer and def. No.1. She had her legitimate share in suit schedule property. There is any documents at this stage to shows partition effected between plaintiff and defendant. At this stage, there is no material to show the ancestral properties were divided among plaintiff and defendants. So the apprehension of plaintiff can be protect. It is just and proper to grant exparte ad-interim order from restraining defendants not to alienate suit schedule properties till next date of hearing or till service of summons on defendant No.1 to 7. Accordingly, I proceed to pass the following ;

ORDER

I.A.No.I filed by the plaintiff under order 39 Rule 1 & 2 r/w/s 151 of CPC is hereby allowed.

Consequently, the defendants are hereby restrained from not to alienate the suit schedule properties by way of an ad-interim temporary injunction.

Plaintiff shall comply Order 39 Rule 3 of CPC forthwith.

If complied, issue order of temporary injunction, notice of I.A.No.I and suit summons to the defendants.

On compliance, this order will be in force till next date of hearing or till service of summons on defendant No.1 to 7.

Call on 05.12.2024.

Dt : 22.10.2024. (R.MAHESH)
Senior Civil Judge and
J.M.F.C., Pandavapura.