

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

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

2. The 3rd plaintiff has sworn in the annexed affidavit that, the above suit filed for relief of partition and separate possession of their shares over suit schedule property by metes and bounds. The original propositor one Sannapapegowda and his wife Smt.Honnamma had three male children and one female daughter. Both have dead leaving behind their Lrs i.e., plaintiffs and defendant. The suit schedule property is ancestral and joint family property of plaintiffs and defendant. There is no division in their family. They being member of Hindu undivided joint family, they had share in suit schedule property. Now, revenue records stands in the name of defendant. The defendant has no any absolute right over suit schedule property, he is trying to alienate above property as his wish without consent of plaintiffs. If he alienates the suit schedule property to 3rd parties, it would lead multiplicity of proceedings and it would deny the right of plaintiff over suit schedule property. Therefore, plaintiffs pray to consider this application in the ends of justice and equity.

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

4. Perused the records, it appears that, one propositior Sannappapegowda and his wife Smt.Honnamma had three male children and one female children, they are, one Bhagyamma (1st plaintiff), one Kumara K.P. (defendant), one Jayaramu K.P. (2nd plaintiff), Komala K.P. (3rd plaintiff). The suit schedule property originally belongs to Smt.Honnamma, it is her self-acquired property. After her death, her husband i.e., father of plaintiffs and defendant one Sannappapegowda got pouthi khatha in his name. He being kartha of Hindu undivided joint family, led family till his death. He died on 11.04.2006. Defendant being elder male son of late Sannappapegowda, he got khatha in his name by the consent of plaintiffs. There is no any division between plaintiffs and defendant. Now, RTC stands in the name of defendant for full extent. Handwritten RTC shows that one Smt.Honnamma W/o Sannappapegowda has purchased schedule property through sale deed and it is mutated in the name of late Smt.Honnamma as per M.R.1/1998-99. The said khatha continued in the name of Smt.Honnamma till her death. After her death, khatha of schedule property mutated in the name of her husband Sannappapegowda as per M.R.11/1998-99. The said Sannappapegowda died leaving behind his Lrs on 11.04.2006. Present RTC of schedule property stands in the name of defendant. The plaintiffs are legal heirs of

deceased late Sannapapegowda and Honnamma. At this stage, plaintiff has not produced any testamentary documents to show, during lifetime of Smt.Honnamma, she had bequeathed her self-acquired property to anybody. Moreover, after her death, the said khatha transferred in the name of her husband late Sannapapegowda, so it is crystal clear that though it is self-acquired property of Smt.Honnamma, but during her lifetime, she has not disposed her property through any testamentary document. So under such circumstances, it is just and proper to restrain the defendant from alienating suit schedule property, otherwise it will leads to multiplicity of proceedings. So this apprehension could be considered at this stage. Therefore, it is just and proper to grant ad-interim exparte injunction in favour of the plaintiffs, otherwise, it leads to multiplicity of proceedings. Hence this court proceed to pass the following :-

ORDER

I.A.No.I filed by the 3rd plaintiff under Order XXXIX Rule 1 & 2 R/w Section 151 of CPC is hereby allowed.

Consequently, the defendant is hereby restrained from alienating the suit schedule property by way of an ad-interim temporary injunction.

Plaintiffs shall comply Order XXXIX Rule 3 of CPC forthwith.

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

On compliance, this order will be in force till next date of hearing or till service of summons on defendant.

Further, plaintiffs' Counsel is hereby directed to produce sufficient numbers of plaint and I.A. copies and sufficient PF paid in office forthwith.

R/by 04.06.2025.

Dt : 25.03.2025

(R.MAHESHA)
Senior Civil Judge and
J.M.F.C., Pandavapura.