

Orders on I.A.No.I

The Plaintiff has filed I.A. No.I U/o XXXIX Rule 1 and 2 of Code of Civil Procedure, wherein the Plaintiff has prayed to restrain the Defendants by way of ad-interim order of temporary injunction from alienating or encumbering the suit schedule properties till disposal of the present suit.

In support of I.A. No.1, the Plaintiff herein has sworn to an affidavit and stated the reasons.

Heard learned counsel for the Plaintiff and perused the records placed before the court.

The counsel for the Plaintiff submits that originally the suit schedule properties belong to one Sri.Maan Singh who was the great grand father of Plaintiff and Defendants who acquired the same through inheritance, thereby the suit schedule properties are the Joint Family Properties of Plaintiff and Defendants. Subsequently, the Defendant No.2 having dishonest intention has created some fictitious documents in his favour before the Revenue Authority and get the khata mutated in his name in respect of the suit schedule item No.2 and 3 properties without the consent of the Plaintiff.

Thereafter, the Defendant No.2 in order to deprive the rights of the other family members, had entered into registered partition deed dated 01.06.2022 without the knowledge and behind back of the Plaintiff as the said properties are ancestral and Joint Family Properties and the Defendant No.2 is not having any right title or interest to get transferred the khata into his name which will not bind on the legitimate shares of the Plaintiff. In view of the same, the Plaintiff has made several requests and demands with the Defendants to make partition of the suit schedule properties, but the Defendants postponed the same by giving one or the other reasons. Hence, taking advantage of the same the Defendant No.2 has got changed all the revenue records and khata of the suit schedule item No.2 and 3 properties illegally in his name which will not create any right or interest as the suit schedule properties are ancestral and Joint Family Properties and making efforts to alienate the suit schedule properties and as such, they need restrain by way of temporary injunction order.

The suit is one for Partition and Separate Possession of the suit schedule properties and the documents placed before the court prima-facie reveal that the suit properties are the Joint

Family Properties and the Plaintiff has legitimate share in the suit schedule properties. So, considering the apprehension of the Plaintiff, it is opined that in the events of not restraining the Defendants from alienating the suit schedule properties, then the rights of the Plaintiff may be defeated and it would lead multiplicity of proceedings and hence, a prima-facie case is made out and accordingly, this court proceeds to pass the following :

ORDER

The Defendants are hereby restrained from alienating or encumbering the suit schedule properties by way of ad-interim exparte temporary injunction order. This order shall be remained in force till next date of hearing.

Issue temporary injunction order if the same is complied the provisions of Order 39 Rule 3A of CPC.

Issue suit summons to the Defendants and notice on I.A. No.1 to the Defendants

Call on

**Prl. Sr.Civil Judge & CJM.,
Mysuru.**