

**ORDER REGARDING GRANTING OF AD-INTERIUM EX-PARTE
ORDER OF TEMPORARY INJUNCTION**

The applicants/plaintiffs filed IA No.II under Order 39, Rule 1 and 2 read with section 151 of Civil Procedure Code for restraining the defendants from alienating or creating any charge over the suit properties till the pending disposal of the suit.

The applicants/plaintiffs filed IA No.I under Order 39, Rule 3 read with section 151 of Civil Procedure Code for dispensing the issuance of notice on IA No.I to defendants before passing ad-interim ex-parte temporary injunction at this stage.

The application is supported with the affidavits of applicants/plaintiffs duly sworn and stated that suit schedule properties are the joint family properties of the plaintiffs and defendants no. 1 to 21 originally belong to their grandfather Late.Shekarappa and after his demise the plaintiffs and defendants no. 1 to 21 being his legal representatives have inherited the suit properties by operation of law and are in joint possession of the same by cultivating seasonal crops. It is further sworn that the defendant no.1 to 21 have illegally got the katha of the suit properties in their names and also sold item no.1 & 2 of the suit properties to the defendant no. 22 & 23 without the notice of the plaintiffs and defendants no. 1 to 21 are now trying to alienate the remaining suit properties with an intention to defraud the valuable rights of the plaintiffs over the suit properties and sought for grant of ex-parte temporary injunction.

Perused the plaint averments as well as sworn affidavits of the applicants/plaintiffs filed in support of IA No.I and II and also the documents produced by the plaintiffs.

The documents produced by the plaintiffs prima facie shows that suit schedule properties appears to be the ancestral and joint family properties of the plaintiff and defendants no. 1 to 21 being self acquired properties of plaintiffs grandfather namely Late.Shekarappa. The present suit is filed by the plaintiffs for partition and separate possession against the defendants seeking for their legitimate share of 1/3rd in the suit properties. The grievance of the plaintiffs at this stage is that defendants no. 1 to 21 has already alienated item no. 1 & 2 of the suit properties in favor of defendants no. 22 & 23 vide sale deeds dated 25.01.2021 and also they are trying to alienate the remaining suit properties on the guise of the katha standing in their name and in that event they will be put to hardship and it will affect their valuable rights over the suit properties and it may multiply the litigation. The main objective of granting temporary injunction is to preserve the suit properties intact till the conclusion of trial. In the facts and circumstances of the case, if the interim relief as prayed in IA No.II is not granted, in my opinion it will frustrate the very purpose of filing of the suit and also it will multiply the litigation. Hence, I am of the opinion that at this stage, plaintiffs made out grounds for grant of ex-parte injunction. Therefore, I proceed to pass the following:

ORDER

IA No.I filed by the applicants/plaintiffs under Order 39, Rule 3 read with section 151 of Civil Procedure Code for dispensing the issuance of

notice on IA No.II to defendants at this stage is allowed.

Issue ex-parte order of ad-interim temporary injunction against the defendants as prayed in IA No. II.

Consequently, defendants are hereby restrained from alienating or creating encumbrance over the suit schedule properties.

This order will in force till filing of written statement and objection to IA No.II by the defendants.

Issue order of ex-parte temporary injunction passed on if the plaintiffs have complied the mandatory provision of Order 39, Rule 3(a) of Civil Procedure Code.

Issue suit summons and notice of IA No.II to defendants if sufficient process fee and copies are furnished.

Returnable by: 18.02.2022

(Dictated to the Stenographer on computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the 29th day of January, 2022.)

Senior Civil Judge & JMFC
H.D. Kote