

ORDERS ON I.A.NO.1

The plaintiff has filed this suit for partition and separate possession in respect of suit schedule property. Along with plaint, the plaintiff has also filed I.A.No.1 U/O.XXXIX Rules 1 and 2 of C.P.C., seeking an ad-interim Temporary Injunction Order against the defendants restraining them from not to alienate the suit schedule property till disposal of the suit.

Heard the learned Counsel for plaintiff and perused the materials on record. In the affidavit filed in support of IA No.1 the plaintiff has stated

that, originally suit schedule property belongs to Alagudunaika and same was acquired by him through his ancestors. Said Alagudunaika had three children and said Alagudunaika died 40 years ago leaving behind his legal heirs i.e., herself and defendants. She further stated that she is in joint possession over the suit schedule property alongwith defendants and the Defendant No.3 is trying to alienate the suit schedule property on the basis of khatha stands in her name. The plaintiff demanded her lawful share, but the defendants flatly refused to give her legitimate share over the suit schedule property. Hence, she has approached this Court for necessary relief.

The plaintiff in her affidavit has further stated that, she has made out a prima-facie case and balance of convenience lies in her favour and if ad-interim temporary injunction is not granted as prayed in I.A.No.1, she will be put to irreparable loss. Hence, the plaintiff has prayed temporary injunction as sought in I.A.No.1.

As per Rule 3 of Order 39 of the C.P.C., the power to grant an ex parte-interim injunction in exceptional circumstances based on sound judicial discretion to protect the plaintiff from appended injury may be granted.

It is well settled that, while granting injunction plaintiffs must show:-

- i. Existence of prima-facie case,
- ii. Balance of convenience and
- iii. The injury must be of an irreparable

loss that cannot be compensated in terms of money.

In the present case in order to grant an ad-interim temporary injunction, the plaintiff has produced handwritten RTC extracts and computerized RTC extracts. Perused the plaint averments, documents and affidavit filed in support of IA.No.1. Since there is an apprehension with regard to alienate the suit schedule property, hence at this juncture, the plaintiff has made out grounds that, if temporary injunction order is not granted, the very purpose of filing this suit will be defeated and she will be put to irreparable loss and on the contrary no kind of loss will be caused to the defendants.

At this stage, this Court satisfied with the prima-faice case, in view of handwritten RTC extracts and computerized RTC extracts produced by the plaintiff. The balance of convenience is also satisfactory. Accordingly, in the ends of justice and to avoid multiplicity of proceedings, this Court proceed to pass the following:-

ORDER

Issue exparte ad-interim
Temporary Injunction order against
the defendants restraining them from
alienating over the suit schedule
property till next date of hearing.

The plaintiff shall comply Order
39 Rule 3(a) of C.P.C. However, the
plaintiff shall file compliance affidavit

and after compliance office is directed
to issue T.I. order.

Issue notice on I.A.No.I, exparte
T.I. order to defendants and suit
summons to defendants.

Returnable by 07.11.2025.

Prl. Civil Judge & J.M.F.C.,
NANJANGUD.