

Order on I.A.No.VII

Plaintiff No.2 has filed I.A.No.VII u/Order 39 Rules 1 & 2 R/w/Section 151 of CPC., prays for restrain defendant No.2 to 7 from alienating the Item No.3 and 4 of suit schedule properties till disposal of the suit.

2. Despite sufficient opportunities, the defendants have not filed objections to I.A.No.VII.

3. Heard learned counsel for plaintiffs and perused the records. The defendants did not come forward to submit their arguments on I.A.No.VII.

4. In support of I.A.No.VII, the plaintiff No.2 has sworn to an affidavit stating that, the plaintiffs have filed this suit against the defendants for the relief of

partition and separate possession in respect of suit schedule properties. Defendant No.2 to 6 are spreading rumour that, they are going to alienate Item No.3 and defendant No.7 is also attempting to alienate item No.4 of the suit schedule property in order to defeat the legitimate rights of the plaintiffs and also create a multiplicity of proceedings. Hence, this application.

5. Ex.P29 discloses that, khata of Sy.No.25/2 measuring 1 acre 20 guntas of land situated at Gonahalli village stands in the joint names of defendant No.2 to 4. Ex.P34 discloses that, khata of Sy.No.66 measuring 2 acres 14 guntas of land situated at Gonahalli village stands in the name of defendant No.7.

6. Defendant No.7 in her written statement contends that, plaintiff No.1 and defendant No.1 had sold item No.4 of suit schedule property to her through registered sale deed dated: 10.10.2005. It is pertinent to note that, the present application is filed by plaintiff No.2. The plaintiffs in their plaint pleaded that, defendant No.1 sold item No.4 property to defendant No.7. Whether plaintiff No.1 is also executant of sale deed is a matter of full fledged trial. As I said earlier, defendant No.2 to 7 have not filed their objections to I.A. and they did not come forward to address their submission on I.A.No.VII.

7. On perusal of the materials on record, at this stage the plaintiffs have made out a prima-facie case in order to grant an order of temporary injunction. If defendants No.2 to 7 succeed in their attempt of making alienation of Item No.3 and 4 of suit properties, as alleged by the plaintiffs in I.A.No.VII, it would give room for multiplicity of proceedings and encourages the litigation. It would be just and proper to restrain the defendants No.2 to 7 from alienating the Item No.3 and 4 of suit schedule properties, in order to protect and preserve the suit schedule properties, so that if ultimately, the plaintiffs who are the initiator of the suit, succeeds in the suit, they would not be put to inseparable and uncompensatable loss. The object is to keep the properties in status quo so that it would be available to the plaintiffs if they ultimately succeeds in the suit. Hence, I proceed to pass the following:-

ORDER

I.A.No.VII filed by plaintiff No.2
u/Order XXXIX Rules 1 and 2
R/w/Section 151 of C.P.C. is hereby
allowed.

Defendant No.2 to 7 are hereby
restrained by way of temporary injunction
from alienating the Item No.3 and 4 of suit
properties till disposal of the suit.

No order as to costs.

**I Addl. Civil Judge & JMFC.,
Nanjanagudu**