

ORDERS ON I.A.NO.1

The plaintiffs have filed this suit for partition and separate possession in respect of suit schedule property. Along with plaint, the plaintiffs have 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 plaintiffs and perused the materials on record. In the affidavit filed in support of IA No.1 the 1st plaintiff has stated that, Originally suit schedule property was granted to her Grand Father Sri.Kempaiah alias Pukalaiah vide DCDR.30/59-60 dated 16.10.1961. As a kartha the Madaiah who is the son of Pukalaiah was managing the suit schedule property, accordingly grant was made in his name and khatha of the suit schedule property also transferred in his name. But, plaintiffs and defendants are in joint possession over the suit schedule property. After demise of Madaiah the defendants No.1 to 3 have transferred khatha in their names and they are trying to alienate the suit schedule property. Hence, she has approached this Court for necessary relief.

The 1st 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 exparte-interim injunction in exceptional circumstances based on sound judicial discretion to protect the plaintiffs 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 plaintiffs have produced Genealogical Tree, Grant list, RTC extracts, Index of Land, Akar Bandh, Mutation register extract and Survey Settlement. 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 plaintiffs have made out grounds that, if temporary injunction order is not granted, the very purpose of filing this suit will be defeated and they 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-facie case, in view of Genealogical Tree, Grant list, RTC extracts, Index of Land, Akar Bandh, Mutation register extract and Survey Settlement produced by the plaintiffs. 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 plaintiffs shall comply Order 39 Rule 3(a) of C.P.C. However, the plaintiffs shall file compliance affidavit and after compliance office is directed to issue T.I. order.

Issue notice on I.A.No.1, exparte T.I. order to defendants and suit summons to defendants.

Returnable by 28.11.2025.

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