

ORDER ON IA-1 U/O 39 RULES

1 & 2 CPC

Suit is for partition and separate possession.

Plaintiffs asserted that; propositus Kariyappa and Lakshmamma died leaving behind defendant-1 (husband and father of defendants-2 to 4), deceased Puttaswamygowda (husband and father of defendants-5 to 8), Chandrikadevi (P1) and Sunandadevi (P2). They constituted joint family. Suit properties are ancestral and joint family properties. There is no severance of joint status. Plaintiffs demanded to effect partition and to allot their legitimate share but to no use. Hence, suit is filed.

Plaint is appended with IA-1; u/O 39 Rule 1 & 2 CPC, wherein it is prayed to restrain the defendants from alienating suit properties.

Plaintiffs have produced documents viz., RTC extracts & death certificate. Apprehension of plaintiffs is that; if the

defendants are not restrained from alienating suit properties, they will be subjected to hardship which cannot be compensated by any means and it will lead to the multiplicity of proceedings.

On perusal of plaint, IA-I along with affidavit averments and documents relied by the plaintiffs, it reveals that at the moment they have made out a prima facie case and there is no reason to suspect the bonafides of their case. If ex-parte order on IA-1 is not granted a situation may arise, which might become irreversible by the time the dispute is closed. If prior notice is not dispensed, the delay causing in service of notice defeats the very purpose of filing suit.

ORDER

Defendants are temporarily restrained from ***alienating*** the suit properties **till further orders.**

Issue ex-parte temporary injunction order on IA-I against defendants if

provisions of Order 39 Rule 3 CPC are complied.

It is made clear that this order will not restrain the defendants from availing agricultural loans on the suit lands.

Issue suit summons & emergent notice on IA-I to the defendants through Court & RPAD returnable by:
19.08.2023.

sd/-
Senior Civil Judge,
PERIYAPATNA.