

ORDERS ON I.A.NO.I to III.

The plaintiffs have filed a suit for Partition against defendants in respect of the suit schedule property.

2. The plaintiffs have filed I.A.No.I Under Section 80(2) of C.P.C., praying for dispensation of issuance of cause notice to the defendant No.3 to file a suit against the defendant No.3. If dispensation of issuance of cause notice to the defendants is not allowed, the very purpose of filing of the suit will be defeated.

3. The plaintiffs have also filed I.A.No.II under Order 39, Rule 1 and 2 of C.P.C., praying to grant an order of ad-interim temporary injunction in favour of the plaintiffs and against the defendants, restraining the defendant No.1 and 2 and their agents, assignee or anybody acting on their behalf from alienating the suit schedule property till the pending disposal of the above suit. Further the plaintiffs have also filed I.A.No.III under Order 39, Rule 1 and 2 of C.P.C., praying to grant an order of ad-interim temporary injunction in favour of the plaintiffs and against the defendant No.3, restraining the defendant No.3 or anybody acting on his behalf from affecting the katha or any other revenue entries either in favour of defendant No.2 or in favour any other 3rd parties in respect of suit schedule property till the pending disposal of the above suit.

4. The plaintiffs have produced copy of genealogical tree, copy of demand register extract, copy of death certificates, Copy of notice issued by defendant No.3, Copy of legal notice dated 16.12.2022, photographs, Copy of voter I.D., Ration Card and Aadhar Card.

5. It is found from the affidavit of I.A.No.I that the matter in question is very urgent in nature as the defendant No.3 have tried to change the katha in favour of defendant No.2. Therefore, I am of the opinion that if the I.A.No.I is not allowed, the very purpose of the suit will be defeated.

6. On perusal of the pleadings and the documents filed by the plaintiffs, this Court is of the opinion that the plaintiffs have not made out prima-facie case at this stage to grant temporary injunction. However, before passing any order on I.A.No.I, it is necessary to hear the defendants as per the mandate of Rule 2 of Section 80 of C.P.C. Hence, it is necessary to hear both sides before passing any order. Therefore, by considering the facts and circumstances, I proceed to pass the following:-

ORDER

I.A.No.I filed under Section 80(2) of C.P.C. is allowed. Issuance of statutory notice to the defendant No.3 before passing of ad-interim temporary injunction order is dispensed with.

Issue emergent notice on I.A.No.II and III and suit summons to the defendants through R.P.A.D.

Returnable by: 25.01.2023

**Addl. Civil Judge & J.M.F.C.,
T.Narasipura.**