

## **ORDERS**

The plaintiffs have filed this suit against the defendants for the relief of partition and separate possession in respect of the suit schedule properties.

The learned counsel for the plaintiffs has filed I.A.No.II under Order XXXII Rule 3 of C.P.C. seeking to appoint the defendant No.1 as a minor guardian to defendant No.2.

The plaintiffs have also filed I.A.No.III U/O.39, Rule 1 and 2 of C.P.C., praying to grant ex-parte ad-interim temporary injunction order in favour of plaintiffs and against the defendant No.1 or any other person acting on her behalf from not to alienate the item No.2 & 3 of the suit schedule properties in any manner till pending disposal of the suit.

Heard and perused the materials available on record.

The plaintiffs have produced Assessment register extract, Form No.11B, Endorsement, R.T.C extracts, Death certificates, objection, Genealogical tree, Legal notice dated:19.08.2024, Postal receipt and acknowledgment.

On perusal of the pleadings and document filed by the plaintiffs, it is crystal clear that presently the I.A.No.III/item No.1 of the suit schedule property is standing in the name of husband of the plaintiff No.1 by name Late T.V.Veeregowda and item No.2 & 3 of the suit schedule properties are standing in the name of

husband of the defendant No.1. Now the defendant No.1 is trying to alienating the item No.2 & 3 of the suit schedule properties. At this stage, this Court is of the opinion that, the plaintiffs have made out prima-facie case to grant temporary injunction. If temporary injunction is not granted as prayed, the purpose of filing the suit would be defeated and also it would cause hardship and inconvenience to the plaintiffs. Thus, ex-parte temporary injunction may be granted by dispensing with the notice to the defendants on I.A.No.III as the very object of granting injunction would be defeated by delay if notice is issued.

In the accompanying affidavit filed along with I.A.No.II, it is stated that the defendant No.1 is the mother of defendant No.2, who is in the care and protection of her. The interest of defendant No.2 being minor is involved. Accordingly, she prayed to allow the I.A.No.II.

From the perusal of the Rule 3 of Order XXXII of C.P.C., it is abundantly clear that, every suit by a minor shall be instituted in his name by a person who in such suit shall be called the next friend of the minor.

From the perusal of the affidavit of I.A.No.II, it is clear that the mother, who is defendant No.1 is looking after well being of the defendant No.2 and the defendant No.1 is the natural guardian of the defendant No.2 who is minor. Therefore, if the defendant No.1 is appointed as a guardian in favour of defendant No.2 to proceed with the case, no hardship will be caused to the other

side. Therefore, I am of the opinion that the plaintiffs have made out sufficient grounds to appoint defendant No.1 as guardian to the defendant No.2. Hence, the grounds mentioned in I.A.No.II are believable.

**:: ORDER ::**

I.A.No.II filed under Order XXXII Rule 3 of C.P.C. is hereby **allowed**.

Further, the defendant No.1 is hereby appointed as a guardian in favour of defendant No.2 to represent her in the case.

Issue ad-interim temporary injunction against the defendant No.1 by restraining her or any other person acting under the defendant No.1 are hereby restrained from alienating the item No.2 & 3 of the suit schedule properties in any manner till next date of hearing.

The plaintiffs are hereby directed to compliance under Order 39 Rule 3(a) of C.P.C.

Issue T.I Order on I.A.No.III and issue notice to defendants.

Returnable by:

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