



**IN THE COURT OF THE PRL.SENIOR CIVIL JUDGE AND
CJM., AT RAMANAGARA**

Dated : This the 22nd Day of May, 2023

Present:-

Smt. SARASWATHI.K.N.,
B.A.L., LL.M.,
Prl. Senior Civil Judge & CJM.,
Ramanagara.

O.S.No.211/2022

Plaintiff :- Smt. Roopa

V/s

Defendants :- Smt. Sujatha and others

I.A.No.1

Applicant :- Smt. Roopa

- (Plaintiff)

-V/s-

Opponents : Smt. Sujatha and others

- (Defendants)

* * * * *

ORDER ON I.A No.1

The Plaintiff has filed this application to restrain the Defendants from alienating or creating charge in respect of the suit schedule properties in favour of anyone, till the disposal of the suit.



2. In the affidavit sworn in support of the present application, the Plaintiff has sworn that, the Defendant No.4 is the kartha of the joint family of the Defendant No.1 to 7 and her and till date, there is no division of the joint family properties among them. The Defendant No.8 is the purchaser of the plaint "E" schedule property.
3. That, when she demanded for her legitimate share, the Defendant No.1 and 4 conspired with the Defendant No.8 and other third parties and they are interested to sell the suit schedule properties. She is not aware of the 2 deeds. Therefore, it is clear that, the Defendants have the intention of grabbing her legitimate share in respect of the suit schedule properties. She has not signed on the said two deeds and she has not received any amount either from the Defendant No.8 or from any third persons. However, the Defendants have colluded with the Sub-Registrar and got registered the two deeds.



4. That the Defendant No.1 to 7 and she are in possession and enjoyment of the suit schedule properties. However, the Defendants are acting detrimental to her interest in the joint family properties and they have failed to furnish the details of the joint family properties to her. Further, the Defendants are also making hectic efforts to alienate the suit schedule properties in favour of 3rd persons on the basis of the RTC's. Therefore, she has prima-facie case, balance of convenience and comparative hardship are in her favour. Accordingly she has prayed to allow the I.A.
5. It is seen that though the Defendant No.1, 2, 4 and 5 have appeared through their counsel, but they have not filed their objection to the present application. The Defendant No.3 and 6 to 8 are placed exparte.
6. Heard the learned counsel for the Plaintiff on the present application and perused the materials on record.



7. The following points arise for my consideration:-

(1) Whether the Plaintiff has made out prima-facie case in respect of I.A.No.1 in her favor for the grant of TI?

(2) Whether the balance of convenience lie in favour of the Plaintiff?

(3) Whether the Plaintiff would suffer irreparable loss and injury, if the temporary injunction is not granted in her favour?

(4) What order?

8. My answers to the above points are as under:-

Point No.1 to 3 :- In the Affirmative;

Point No.4 :- As per the final order for the following:-

REASONS

9. **Point No.1:-** The Plaintiff is the daughter of the propositus Doddamariyappa, while the husband of the Defendant No.1 and the father of the Defendant No.2 and 3 viz., D.Ramesh and the Defendant No.4 are her brothers. The Defendants have not disputed the relationship as



claimed by the Plaintiffs in the suit. The Defendant No.5 to 7 are the wife and children of the Defendant No.4.

10. According to the Plaintiff, the suit schedule properties are the ancestral and joint family properties of the Defendant No.1 to 7 and herself and therefore, in view of the death of her father Doddamariyappa and his wife Ramamma intestate, she, along with the Defendant No.1 and Defendant No.4 is entitled for equal share in all the items of the suit schedule properties.

11. However, the Plaintiff has alleged that, though she has her legitimate share in all the items of the suit schedule properties, the Defendant No.1, being the wife of the 1st son of the propositus D.Ramesh and the Defendant No.4 have entered into a registered partition deed on 25.02.2019, to which, she is not a party. Thereafter, on the basis of the said partition deed, the Defendant No.4 has



already sold the plaint “E” schedule property in favour of the Defendant No.8 vide registered sale deed dated 12.11.2019.

12. Along with the plaint, the Plaintiff has produced the notarized copy of the genealogical tree, online copies of the registered Partition Deed dated:- 25.02.2019, the recitals of which reference to the properties of the said deed as the joint family and ancestral properties of the parties to the said deed. Un-disputedly, the Plaintiff is not a party to the said partition deed. The Plaintiff has also produced the online copy of the registered sale deed dated:- 12.11.2019 executed by the Defendant No.4 in favour of the Defendant No.8 and the Defendant No.5 to 7 have also joined the execution of the said sale deed. The Plaintiff has alleged that, on the basis of the registered Partition Deed, the Defendant No.4 has already sold a plaint “E” schedule property in favour of the Defendant No.8.



13. The Plaintiff has also produced the copies of mutation register extract and the RTC's pertaining to the suit schedule properties which shows that, the katha pertaining to the suit schedule properties have been changed to the names of the Defendant No.1 and the Defendant No.4 on the basis of the Partition Deed dated:- 04.04.2019 as per M.R.No.H19/2018-19.

14. The question whether the plaint schedule properties are the ancestral properties and joint family properties or not and the question whether the Plaintiff has right over the said properties or not needs to be decided by the Court only after a full fledged trial. However, at this stage, considering the fact that the entire claim of the Plaintiff with regard to her relationship with the Defendant No.1 to 7, with regard to her claim in respect of the suit schedule properties as well as the nature of the suit schedule properties being not in dispute. Hence, the



Plaintiff has made out a prima-facie case in her favour.

Accordingly, this Point is answered in the **“Affirmative”**.

15. **Point No.2 and 3:-** As the Plaintiff has claimed that, she is also entitled to equal share along with Defendant No.1 to 7 in all the items of the suit schedule properties and in the meanwhile, if the suit schedule properties are alienated or encumbered, then it may lead to multiplicity of proceedings. Therefore, at this stage, the Plaintiff has made out prima facie case and balance of convenience and comparative hardship in her favour. Accordingly, these Points are answered in the “Affirmative”.

16. **Point No.4:-** In view of my answers to Point No.1 to 3, I proceed to pass the following :-

ORDER

I.A.No.1 filed by the Plaintiff under Order XXXIX Rule 1 and 2 R/w Sec.151 of the CPC., is hereby allowed.



The Defendants are restrained from alienating or encumbering the suit schedule properties in favour of anyone, pending disposal of the suit.

In the circumstances, no order as to costs.

(Dictated to the Stenographer, transcribed by him, the transcript corrected and then pronounced by me in the open Court on this the 22nd day of May, 2023).

Prl.Senior Civil Judge & CJM,
Ramanagara.