

**ORDER ON I. A. NO. I
FILED UNDER SECTION
80 (2) OF CPC BY THE
PLAINTIFFS**

This is an application filed by the plaintiffs along with suit with a prayer to dispense the plaintiffs from issuance of prior notice to the defendant No.2 to institute the present suit against him.

In the affidavit which is annexed to the present application, it has pleaded by the plaintiffs that, the plaintiffs have filed the present suit for partition and separate possession in respect of suit schedule property. Further it is deposed by the plaintiffs that the suit schedule property was acquired by the defendant No.2. The defendant No.1 is in hurry to withdraw the said compensation amount in his favour to deprive the share of the plaintiffs on the suit schedule property. Further it is deposed that if the defendant No.1 has withdrawn the said compensation amount from the defendant No.2, the very purpose of filing of this suit will

be defeated. As such, due to this urgency in filing the present suit, the plaintiffs have not issued prior notice to the defendant No.2 as required under section 80 (1) of CPC.

Heard the arguments advanced by the learned counsel for the plaintiffs on I.A No. I, the counsel for the plaintiffs has argued that, if the plaintiffs awaited 60 days after issuance of prior notice as per section 80 of CPC, the defendant No.1 will definitely withdraw the said compensation amount from the defendant No.2. As such, the plaintiffs have no time to wait for 60 days as there is urgency to restrain the defendant No.1 from withdrawing the said compensation amount. Hence due to this urgency the plaintiffs can dispense from issuance of prior notice to the defendant No.2 to initiate proceedings against him. Perused the plaint averments, documents available on records and affidavit annexed to present I.A. Admittedly the plaintiffs have filed the present suit against the defendant No.1 and 2 for partition and separate

possession in respect of suit schedule property. It is the apprehension of the plaintiffs that the defendant No.1 may withdraw the compensation amount from the defendant No.2 awarded in respect of suit schedule property. In order to prove this aspect, the plaintiffs have also produced the copy of notices dated 06-12-2004, 05-05-2005 and endorsement dated 12-06-2024, those documents are clearly establishes the case of the plaintiffs at this stage. If the defendant No.1 is allowed to withdraw the said compensation amount from the defendant No.2, definitely irreparable loss, inconvenience and injustice will be caused to the plaintiffs rather than the defendants. Hence, at this stage the plaintiffs have made good grounds to allow the present application, hence I proceed to pass the following;

ORDER

I.A.No.I filed Under Section 80 (2) of CPC by the plaintiffs is hereby allowed.

The plaintiffs are hereby dispensed from issuance of prior notice to the defendant No.2 to initiate present suit against him.

Issue suit summons to the defendants. If sufficient PF is paid.

Call on 15.10.2025.

Sd/-
Prl. Civil Judge & JMFC.,
Kanakapura.