

Heard Sri. M.M., counsel for plaintiff on I.A.No.I filed under Order XXXIX Rules 1 and 2 of CPC and perused the materials on record. The plaintiff has filed I.A.No.I seeking an order of Temporary Injunction restraining the defendants and their agents, servants or anybody acting under them from alienating/encumbering in respect of the suit schedule properties till disposal of the suit.

2. In the accompanying affidavit it is stated that, the plaintiff has filed this suit against the defendants for 1/3rd share in all the suit schedule properties by metes and bounds and other reliefs. It is further contended that, suit schedule properties are the ancestral and joint family properties of plaintiff and defendants No.1 to 3. The 2nd defendant Doddakka sold item No.3 in favour of Eranna s/o Eramallaiah on 12.03.2004. On the basis of alleged agreement of sale, Eranna filed a suit in O.S.49/2005 against the Doddakka. The 2nd defendant by colluding with the Eranna has compromised the suit and got registered the sale deed dated 22.06.2011 behind the back of the plaintiff without made the plaintiff as a party to both the proceedings and the defendants refused to effect the partition and hence he constrained to file this I.A.

3. The plaintiff has produced RTCs', Perused the G-Tree, RTCs, Sale deed pertaining to the suit schedule properties item No.1 to 3 and 6 and 9. On its perusal it prima facie goes to show that suit schedule properties are standing in the name of 2nd defendant. The demand register extract stands in the names of defendant No.1 and 2. The plaintiff has also produced the copy of sale deed dated 22.06.2011 which goes to show that as per the compromise decree defendant No.2 had sold the suit schedule property in favour of Eranna s/o Eramallaiah. At this stage, if defendants alienate the suit schedule properties, it defeats the right and interest of the plaintiff over the suit properties and it will lead to multiplicity of proceedings. If this I.A is allowed, no hardship will be caused to the defendants. On the other hand, if this I.A is not allowed, plaintiff will be put to great hardship and will lose valuable immovable properties. Materials also show that, there is prima-facie case in favour of the plaintiff. Hence, I pass the following;

:ORDER:

The defendants are hereby restrained by

an order of ad-interim ex-parte temporary injunction from alienating or mortgaging or gifting the suit schedule properties in favour anybody in any mode or manner till the next date of hearing.

The plaintiff shall comply the proviso Under Order XXXIX Rules 3(A) of C.P.C.

Issue suit summons and T.I notice of I.A.No.I to the defendants.

Returnable by .

**Sd/-
Prl. Senior Civil Judge
& JMFC., Madhugiri.**