

EXPARTE TI ON I.A. NO.I

I.A.No.I is filed along with affidavit and documents. On perusal of the check slip there is no caveat filed in this case. The suit is for partition and separate possession.

IA. No.I is filed U/o. XXXIX Rule 1 & 2 R/w 151 of CPC., for the relief of temporary injunction restraining the defendants, their men,agents or any person claiming under them from alienating the suit properties in any manner and not to create any charge on the said properties till the disposal of this suit.

Heard the arguments of Learned Counsel for the Plaintiffs. The plaintiffs claiming to have 1/2 share over the suit schedule properties. Perused the plaint averments and materials available on record which price facie discloses that there is a serious issue to go for the trial and the plaintiffs are having an interest in the suit schedule properties. The Court can not hold a mini trial at this stage and if at all if the suit properties are alienated, it will certainly cause hardship to the plaintiffs and also for the subsequent purchasers which leads to complexity and multiplicity of proceedings.

This Court is conscious that, granting of injunction after issuing notice to the other side is a rule and granting of injunction without issuing the notice is an exception, however in the present case on hand I am of the considered opinion that if at all if the ex parte temporary injunction is not granted, the purpose of granting injunction may well be defeated by delay and if the defendants succeed in transferring the suit properties as aforementioned it will cause hardship not only to the plaintiffs but also to the subsequent purchasers which will certainly lead to complexity of litigation. Upon perusal of the case papers, this Court is of the opinion that the plaintiffs have made out the prima facie case, therefore this Court proceeds to pass the following;

ORDER

The defendants, their men, agents or any person claiming under them are hereby restrained from alienating the suit properties in any manner and restrained from creating a charge over the suit properties till the present I.A is disposed off on merits.

Since ex parte injunction is granted, the plaintiffs shall comply the following conditions as per Order XXXIX Rule 3 (a) of CPC, they are

- 1) The plaintiffs shall send
 - a) The copy of the interlocutory application along with affidavit.
 - b) The copy of the plaint.
 - c) The copies of the documents on which the plaintiffs had relied to get this injunction to the concerned defendant by way of registered post.
- 2) The plaintiffs shall file an affidavit to the office regarding the compliance of the same on this very same day or on the day immediately following this day.

Needless to say, non compliance of any of the aforesaid conditions, the ex parte injunction granted will stand vacated automatically.

Issue notice on I.A.No.I and suit summons to defendants if the PF and necessary copies of the plaints are furnished. R/by 08/10/2025.

Sd/-
Civil Judge, Ankola.