

**OS No.40/2023**

Case called out  
Plaintiff is absent  
Heard Sri SSB, advocate for plaintiff.

**ORDER**

The applicant/plaintiff has filed IA No.II under Order XXXIX, Rule 3 of Civil Procedure Code, 1908 praying for dispensation of issuance of notice on IA No.III to the defendants at this stage and prayed for passing ad-interim ex-parte order.

The applicant/plaintiff has filed IA No.III under Order XXXIX, Rule 1 and 2 of Civil Procedure Code, 1908 praying for grant of ad-interim temporary injunction for restraining defendants from alienating or transferring or creating any type of charges or encumbrance over the suit property.

IA No.II and III are supported with affidavits duly sworn by the applicant/plaintiff. It is stated in the affidavit that the suit schedule properties are the joint family properties of the plaintiff, defendant No.1 to 4; all are in joint possession and enjoyment of the suit schedule properties; all are having undivided interest therein and partition is not taken place among them. It is further stated that the defendant No.1 to 4 have created some illegal documents and they are acting detrimental to the interest of the plaintiff and some properties have been alienated in favour of defendant No.5. It is further stated that now the defendants are trying to alienate and transfer the suit properties to third parties and also trying to create encumbrance and charges over the same and hence the present suit is filed for declaration and partition and separate possession along with suit along with IA No.I.

Perused the applications, affidavits filed in support of applications, plaint averments and documents placed on record.

On combined reading of the applications, affidavits filed in support of applications, plaint averments and documents placed on record, it appears to me that the suit properties are the granted lands in the name of father and grant father of the plaintiff and defendant No.2 and 3; they are passed away and hence they are the joint family properties of plaintiff and defendant No.1 to 4 and legal partition is not taken place among them. It also appears to me that some documents came into existence and defendant No.3 has alienated some of the suit properties in favour of defendant No.5. By looking to the fact and circumstances of the case, it appears to me that the defendants may alienate or further alienate or transfer the suit properties and they may create encumbrance or charges over the same and in that event it multiplies the proceedings and it will cause hardship and inconvenience to the plaintiff. Hence at this state I am of the opinion that the apprehension of the plaintiff is well founded and in order to avoid the multiplicity of the litigation, passing of ex-parte temporary injunction is the need of the situation. Hence I proceed to pass the following:

**ORDER**

***IA No.II is allowed and issuance of notice of IA No.III at this stage is dispensed.***

***The defendants are hereby restrained from alienating or transferring or creating any type of charges or encumbrance over the suit schedule properties.***

***This order will be in force till filing of objection to IA No.III by the defendants.***

***The plaintiff is directed to comply mandatory provision of Order XXXIX, Rule 3 (a) and (b) of Civil Procedure Code, 1908.***

***Issue this ex-parte order of temporary injunction if mandatory provision is complied.***

***Issue notice of IA No.III and suit summons to defendants.***

***Returnable by: 15-11-2023.***

***Sd/-***

***Senior Civil Judge & JMFC,  
Honnavar.***