

Case called out
Plaintiffs are absent

ORDER

The applicants/plaintiffs have filed IA No.II under Order XXXIX, Rule 1 and 2 of Civil Procedure Code, 1908 praying for grant of ad-interim temporary injunction for restraining the defendants from alienating or transferring or creating any type of third party rights over suit properties during pendency of the suit.

IA No.II is supported with affidavit duly sworn by the applicants/plaintiff No.2. It is stated in the affidavit that the suit schedule properties are the joint family properties of the plaintiffs and defendant No.1 to 37 and they were granted in the names of ancestors of plaintiffs and defendant No.1 to 37; 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 facts being so the defendant No.1, 27, 32 to 39 have illegally got mutated their names in the revenue records and also created documents behind back of the plaintiffs and without their knowledge and therefore they are not binding on their shares. It is further stated the plaintiffs have requested to the defendants to make partition in the suit properties and allotted shares by metes and bounds and hence, they have filed the suit for partition and separate possession in the suit lands along with IA No.II.

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

On combined reading of the application, affidavit filed in support of application, plaint averments and documents placed on record, it appears to me that the plaintiffs and defendant No.1 to 37 are the members of Hindu Undivided Joint Family; suit properties are the joint family properties granted to their ancestors ; all are in joint possession and enjoyment of the same; all are having undivided interest therein and partition is not

taken place among them relating to suit properties so far. It also appears to me that defendant No.1, 27, 32 to 39 have got mutated their names in the revenue records and also registered some documents for which the plaintiffs are not the parties and therefore they are not binding on their shares. By looking to the fact and circumstances of the case, it appears to me that the defendants may alienate or further alienate the suit properties and in that event, it multiplies the proceedings and it will cause hardship and inconvenience to the plaintiffs. Hence at this stage I am of the opinion that the apprehension of the plaintiffs 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

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

This order will be in force till filing of objection to IA No.II 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.II and suit summons to other defendants.

Returnable by 19-08-2025.

*Senior Civil Judge,
Kundapura.*