

Special Civil Suit No.42/2019.
CNR NO. : MHKO07-001565-2019.

MHKO070015652019



ORDER PASSED BELOW EXH.5

1. The suit is filed by plaintiff for partition and separate possession of their share from suit property as well as for declaration that gift deed is executed by defendant No.1 in favour of defendant No.4 in respect of some suit property on 9/5/2018 is illegal. According to plaintiffs, plaintiff No.2 has half share in suit property 1a i.e. flat No. F-2 situated at Vijayalaxmi Apartment, Jaysingpur. Plaintiff No.1 has 1/12th share in suit property No. 1b and 1c. By way of this application plaintiff has prayed to grant ex-parte temporary injunction restraining defendant from alienating suit property in any manner till disposal of suit finally as well as they also prayed that, not to dispossess them from the suit flat. Plaintiff has filed on record extract of 8-A standing in the name of Jinappa Charahte, who is the father of defendant No.1. Jinappa has died in the year 2007. Thus, documentary evidence filed on record shows that, suit property 1c i.e. agricultural land out of block No. 328 as well as suit property 1b are the ancestral property of defendant No.1. Plaintiffs are daughter and wife of defendant No.1. Prima facie it appears that, they have undivided interest in the suit property.

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2. So far as property No.1a is concerned. According to plaintiff, same was purchased by plaintiff No.1 and defendant No.1 jointly and thus, she has half share in this property. However, there is no evidence to show that, suit property 1a was purchased jointly by plaintiff No.1 and defendant No.1. However, from perusal of documents i.e. notice dtd. 31/1/2018 send by defendants to the plaintiffs, it appears that, present plaintiff is residing in the suit property 1a. There is chances of dispossession of plaintiff from the suit property by the defendant. Therefore, this is a fit case for grant ex-parte temporary injunction. Delay if any, in granting injunction will defeat the purpose of filing of this application. Hence, following order.

ORDER

- (1) Ex-parte temporary injunction is hereby granted in favour of plaintiffs and thereby defendants are hereby restrained from alienating suit property in any manner as well as from dispossessing plaintiffs from the suit flat till filing of say by the defendants on this application.
- (2) Issue show cause notice to defendants as to why ex-parte temporary injunction granted in favour of plaintiffs, should not be confirmed and continued till disposal of suit. Notice **R/o 07.09.2019.**
- (3) Plaintiffs to comply Order 39 Rule 3-A of the Code of Civil Procedure.

Dt.: 19.08.2019.

(K.G. Sawant)
Civil Judge Senior Division,
Jaysingpur