

ORDER BELOW EXH. 5 IN RCS NO.132/2012

01. Perused the application, affidavit of the plaintiff and say of the defendants. I have also perused the documents on record. Heard advocates for both the parties.

02. The plaintiff have filed present suit for partition and separate possession and perpetual injunction. The plaintiff have preferred the present application for restraining the defendants from causing any sort of alienation over the suit property till the final disposal of the present suit. Having heard both the respective advocates, considering entire documents on record, following points arise for my consideration. I have recorded my findings there on with reasons to follows.

	POINTS	FINDINGS
1.	Whether the plaintiff have made out prima facie case to restrain the defendants from alienating the suit property over the suit property?	...Yes.
2.	Whether the balance of convenience lies in favour of the plaintiff?	...Yes.
3.	Whether the plaintiff would suffer the irreparable loss in case of refusing the injunction as prayed for?	...Yes.
4.	What Order?	...Application is allowed.

: **REASONS** :

AS TO POINT NO. 1 to 3 :

03. The plaintiff have contended that the suit properties is

ancestral properties. It is belonging to the plaintiff and defendant No. 1 to 6. It is further contended by the plaintiff that, defendant No. 7 and 8 are the sisters of defendant No. 1. While defendant No. 9 to 25 are the illegal purchasers of the suit properties. Defendant No. 1 is not diligently and properly managing the suit properties. Defendant No. 1 has executed sale deed in favour of defendant No. 9 to 25 without legal necessity or without benefit to the estate. It is further contended by the plaintiff that, the defendants may alienate the suit properties. Therefore he has prayed for grant of temporary injunction in his favour.

4. Mr. Gaikwad Adv. for the plaintiff have submitted same things while advancing his argument to support the application. Therefore I do not find it necessary to reproduce it.

5. To support his claim he has produced the documentary evidence viz. 7/12 extracts of the suit properties. It is on record at Exh. 8 and 9. I have perused it. It depict the name of defendant No. 1. The plaintiff is son of the defendant No. 1. It is not disputed by defendant No. 1. It being ancestral properties, the plaintiff is having his share in the suit properties.

6. Mr. Jadhav Adv. for defendant has submitted that, defendant No. 1 sold out the some part of the suit properties for managing the family necessity, to manage the properties. However he has admitted that, the plaintiff is son of defendant No. 1. Obviously the plaintiff is having his legal share in the suit properties being ancestral one.

7. As regards to ancestral properties, the plaintiff being son

of defendant No. 1 is entitled to his share. Therefore the defendants are required to restrain from alienation of suit properties. 7/12 extract of the suit properties produced by the plaintiff support the case of plaintiff. As regards to irreparable loss, the plaintiff being the claimant in ancestral properties, he is entitled to have his legal share in the suit properties. Therefore in case of refusing injunction, the plaintiff certainly would suffer irreparable loss. Therefore the court find that, the plaintiff have made out prima facie case to grant temporary injunction in his favour. Therefore court answer point No. 1 to 3 in affirmative. Hence, the court pass following order.

ORDER

1. The application is allowed.
2. The defendant No. 1 to 6 are hereby temporary restrained from alienation of the suit property till the disposal of present suit.

Place : Nilanga.
Date : 11.08. 2015.

Sd/-
(G.H. Patil)
Jt. C.J.S.D.Nilanga.