

**ORDER ON I.A No.I & II**

The plaintiffs have filed I.A No.1 U/o 39 Rule 1 and 2 R/w sec.151 of CPC seeking ad-interim ex-parte temporary injunction against defendants restraining them from disturbing plaintiffs' peaceful possession over suit property bearing R.S No.13/3A measuring 1 acre 37 guntas situated at Kallatti village, Terdal, Tq: Rabakavi-Banahatti and I.A No.2 is filed U/o 39 Rule 1 and 2 R/w sec.151 of CPC seeking ad-interim ex-parte temporary injunction against defendant No.4 restraining him from alienating suit property to third person till disposal of this suit.

2. Heard learned counsel for plaintiffs and perused the plaint averments and documents on record. While considering an application under order 39 Rule 1 and 2 of CPC, the court needs to look into prima facie case, balance of convenience and irreparable loss and injury.
3. The plaintiffs have filed this suit against defendants for partition and separate possession. In the affidavit, plaintiff No.1 has stated that, suit property is the ancestral property of plaintiffs and defendant No.1 to 3 and the same was standing in the name of propositus by name Parsappa S/o Basappa Hangandi which had fallen to his share as per Diary No.427 dated 01.07.1986 and the said propositus died on 29.08.2014 and subsequently, plaintiffs along with defendant No.1 to 3 succeeded to the estate of deceased as class I legal heirs. It is submitted that, by taking advantage of the names of defendant No.1 and 2 appearing in ROR, they have falsely alienated the suit property to defendant No.4 and the same is not binding on the share of plaintiffs. It is further submitted that, they have share in the suit property and defendant No.1 to 3 denied to allot their share in suit property and hence, they have filed this suit and applications. It is submitted that, they have got prima facie case and balance of convenience liens in their favour and if the applications are allowed, no harm or loss would be caused to defendants. On the other hand, if the applications are rejected, they would be put to irreparable loss, injury and hardship which cannot be compensated in terms of money. Hence, prayed to allow the applications.
5. At this stage, plaintiffs have made out prima facie case and balance of convenience liens in their favour. If ex-parte ad-interim temporary injunction is not granted, defendants may continue to cause obstruction to the possession of plaintiffs over suit property and defendant No.4 may

alienate suit property which is said to be the joint family property of plaintiffs and defendant No.1 to 3 and presently standing in the name of defendant No.4 and if he alienates the same to third person, this would lead to multiplicity of proceedings. Irreparable loss, injury and hardship would be caused to plaintiffs, which cannot be compensated in terms of money. Hence, in the interest of justice, it is necessary to grant ad-interim temporary injunction order against defendants till next date of hearing. Hence, I proceed to pass the following:

**ORDER**

I.A No.1 & 2 filed by plaintiffs under Order 39 Rule 1 and 2 R/w sec.151 of CPC are hereby allowed.

Defendants are hereby restrained from disturbing plaintiffs' possession over suit property bearing R.S No.13/3A measuring 1 acre 37 guntas situated at Kallatti village, Terdal, Tq: Rabakavi-Banahatti and defendant No.4 is hereby restrained from alienating the above said suit property to third person till next date of hearing.

Issue emergent notice of T.I. order passed on I.A No.1 to defendants and on I.A No.2 to defendant No.4 and suit summons to all defendants, if plaintiffs comply order 39 Rule 3(a) of CPC.

Returnable by: 23.04.2024.

Civil Judge & JMFC, Banahatti