

ORDERS ON I.A.No.II & III.

This is the suit filed by the plaintiffs against the defendants for the relief of Partition and Separate Possession.

2. The learned counsel for the plaintiffs has filed I.A.No.II U/O.39, Rule 1 and 2 of C.P.C., praying to grant ex-parte ad-interim temporary injunction order against the defendants by restraining them, their agents, servants or anybody acting on their behalf from alienating the suit schedule property in any manner whatsoever until the final disposal of the suit.

3. Further, the learned counsel for the plaintiffs has also filed I.A.No.III under Order XXXII Rule 1 R/w Section 151 of C.P.C. to appoint the plaintiff No.1 as a minor guardian to plaintiff No.2 & 3.

4. Heard and perused the materials available on record.

5. The Plaintiffs have produced Demand register extract.

6. On perusal of the pleadings and document filed by the Plaintiffs, it is crystal clear that presently the I.A./suit schedule property is standing in the name of defendant No.1. Now the defendant No.1 & 2 are trying to alienating the suit schedule property. At this stage, this Court is of the opinion that, the Plaintiffs have made out

prima-facie case to grant temporary injunction. If temporary injunction is not granted as prayed, the purpose of filing the suit would be defeated and also it would cause hardship and inconvenience to the Plaintiffs. Thus, ex-parte temporary injunction may be granted by dispensing with the notice to the defendants on I.A.No.II as the very object of granting injunction would be defeated by delay if notice is issued.

7. In the accompanying affidavit filed along with I.A.No.III, it is stated that the plaintiff No.1 is the mother of plaintiff No.2 & 3, who are in the care and protection of plaintiff No.1. The interest of plaintiff No.2 & 3 being minor is involved. Accordingly, she prayed to allow the I.A.No.III.

8. From the perusal of the Rule 3 of Order XXXII of C.P.C., it is abundantly clear that, every suit by a minor shall be instituted in his name by a person who in such suit shall be called the next friend of the minor.

9. From the perusal of the affidavit of I.A.No.III, it is clear that the mother who is the plaintiff No.1 is looking after well being of the plaintiff No.2 & 3 and the plaintiff No.1 is the natural guardian of the plaintiff No.2 & 3 who are minors. Therefore, if the plaintiff No.1 is appointed as a next friend in favour of plaintiff No.2 & 3 to proceed with the case,

no hardship will be caused to the other side. Therefore, I am of the opinion that the plaintiffs have made out sufficient grounds to appoint plaintiff No.1 as next friend to the plaintiff No.2 & 3. Hence, the grounds mentioned in I.A.No.III are believable.

:: ORDER ::

I.A.No.III filed under Order XXXII Rules 1 of C.P.C. are hereby **allowed**.

Further, the plaintiff No.1 is hereby appointed as a next friend in favour of plaintiff No.2 & 3 to represent them in the case.

Issue ad-interim temporary injunction against the defendants by restraining them, their heirs, agents, servants or any other person acting under the defendants are hereby restrained from alienating the suit schedule property in any manner till next date of hearing.

The plaintiffs are hereby directed to compliance under Order 39 Rule 3(a) of C.P.C.

Issue T.I Order on I.A.No.II and suit summons to the defendants.

R/by: 10.11.2023.

**Addl. Civil Judge & JMFC,
T.Narasipura. ****