

ORDERS ON IA NO.1/2023 FILED U/OR. 39

RULES 1 AND 2 R/W SEC.151 OF CPC.

The Petitioner has filed the above application seeking ad-interim exparte temporary injunction restraining the respondent No.5 & 6, their legal representatives, assignees, agents etc., from putting up or formation of any layout in the suit schedule property, pending final disposal of the above petition.

2. *Perused the affidavit in support of the application and the documents placed on record.*

3. *The Petitioner has filed the above petition for drawing final decree, in terms of the preliminary decree passed by this court on 19.03.2019 in O.S.No.25393/2008. In the said suit this court has awarded share to the Petitioner herein also in respect of item No.2 of the property. Now the grievance of the Petitioner is that, in the very same property, the respondents No. 5 & 6 are attempting to form layout and put up construction. The photographs placed on the record indicate the formation of layout. Ofcourse the identity of property cannot be ascertained on the basis of photographs. A legal notice was issued by the petitioner prior to filing*

of the above petition and there is reply notice by the 5th respondent, wherein he has referred to certain gift deeds and confirmation deeds of the year 2021 and 2022 respectively. The said fact is not reflected in the petition. The decree is of the year 2019 and the above petition is filed in the year 2023 and as such at this stage no prima facie case is made out by the Petitioner to grant ad-interim ex-parte temporary injunction without notice to the respondents. Therefore, it is necessary to issue notice to the respondents before considering the prayer sought in the above application. Hence, issue notice to the respondents on the main petition and also on the above application to the respondents through Court and RPAD, if PF is paid, returnable by 24.08.2023.

[P. G Chaluva Murthy]

*LXXII Addl. Addl.City Civil & Sessions
Judge, Bengaluru. (CCH-73) I/c.
XXVI Addl. CC&SJ, Bengaluru (CCH-20)*