

ORDERS ON IA NOS. 2 TO 4

The present suit has been filed by the plaintiff to declare the construction be made on the terrace of the schedule A property by the defendants in an area of 1700 Sqft excluding the existing room being the common area comprised in schedule D property as illegal, unauthorized and unlawful and further for the other consequential reliefs.

The plaintiff also moved IA No.5 U/o 7 Rule 14(2) of CPC in order to dispense with the production of the original documents filed by her in the above suit and unable her to produce the same during the trial of the suit.

In view of the submissions of advocate for the plaintiff IA filed U/O 7 Rule 14(2) of CPC is hereby allowed. However, the counsel for the plaintiff is hereby directed to produce the original documents at the time of hearing on IA No.2 to 4 before the court.

IA No.2 has been filed U/O 39 Rule 1 and 2 of CPC in order to restrained the defendant from interfering or in any manner meddling, cutting or removing the water, power connections, CCTV cameras, Wifi connections, Cables, Electrical line installed in the schedule B property and in the common areas in Ground floor and stilt of the schedule A property as claimed in the application.

IA No.3 has been filed under the same provisions restrained the defendant from interfering with or in any manner occupying the use of or inducting all or any person whomsoever into the schedule D property pending the disposal of demolition and the suit.

IA No.4 has been filed U/O 39 Rule 1 and 2 of CPC in order to grant an order of injunction restraining the defendant from interfering in any manner or carrying out or putting out any further construction in the common terrace area of the schedule A property pending the disposal of the suit.

Plaintiff is the absolute owner of the ground floor of the schedule A property having the super built up area of about 2300 Sqft alongwith the 1/3 undivided share in the schedule A

which came to his possession by virtue of the settlement defendant. 05.12.2016 which is the document No.1 produced by the plaintiff. By the settlement deed the mother of the plaintiff has settled the first floor of the schedule A property alongwith 1/3 undivided share in favour of her 1st son Mr. Namiraj Jain and 2nd floor and room measuring 600 sqft over the roof of the 2nd floor alongwith 1/3 undivided share in favour of the defendant No.1.

The plaintiff and his family are residing in USA and the elder brother of the plaintiff is also residing in USA. The defendant No.1 is residing in the 2nd floor of the schedule A property alongwith the family and he is a doctor by profession. The defendant No.1 is not caring the mother even though she is not keeping well, therefore, the plaintiff hired the services of maid, a nurse, a domestic help to attend the needs of their mother.

Schedule B property is the ownership of the plaintiff and unfortunately father Kantharajaiah died on 08.09.2019. The defendant No.1 neglected their mother which is clear from the CCTV footage which are installed in the suit schedule property. Since plaintiff as well as his elder brother are residing in USA they cannot personally and manage all the illegal activities of the defendant. However, this defendant in order to suppress and hide his illegalities towards his mother as well as the schedule property, her interfering, meddling, cutting, removing the water, power connections, CCTV cameras, Wifi connections, cables which are installed in the schedule B property and in the common areas in the ground floor as well as the stilt of schedule A property. This is clear from the photographs as well as the pendrive which are produced by the plaintiff.

In the same way even though the defendant has no rights over the property which are belonging to the plaintiff their interfering, occupying and inducting the people in the schedule C property which is the portion of the A schedule property which is allotted to all the parties with the right to enjoy all the common areas, facilities and amenities compressed in A schedule property.

In the same way the defendants are also interfered with the common terrace area of the schedule A property which is schedule D property and putting up the constructions illegally even though they are having no rights with respect to

construct the building in the terrace area as per the covenants of the document No.1 which is settlement Deed.

Since the plaintiff alongwith his family are residing in the USA they cannot controlled the illegal activities of the defendant. Therefore, the present suit has been filed with the multiple reliefs alongwith these applications.

On perusal of the documents, the photographs, the contents in pendrive and also from the submissions of the learned counsel appearing for the plaintiff, it is very clear that the plaintiff has made out a prima-facie case, the balance of convenience is in favour of the plaintiff and if at all the order of injunction is not granted definitely the defendant No.1 and 2 will interfere, meddle, cut, remove the water and power connection, CCTV cameras, wifi connections, cables, electrical lines installed in the schedule B property and also in the common areas in ground floor and stilt of the schedule A property, and they will also occupy use or induct any persons in the schedule C property, in the same way they will carryout or put up unauthorized construction in the common terrace area in the schedule A property and also obstruct the common area which will definitely cause irreparable loss to the plaintiff. Accordingly, I proceed to pass the following;

ORDER

Issue an ad interim order of temporary injunction, restraining the defendants, their men, or any persons, acting under the defendants from interfering with or in any manner meddling, cutting, or removing the water, power connections, CCTV cameras, wifi connections, cables, electrical lines installed in the schedule B property and also restraining the defendants from interfering with or in any manner occupying, using or inducting all or any persons into the schedule C property, restraining the defendants from carrying out or putting any further unauthorized construction in the common terrace area of the schedule A property which is schedule D property or obstructing the common area till the next date of hearing.

The plaintiff shall comply the provisions U/o 39 Rule 3 of CPC.

Issue emergent notice on IA No. 2 to 4 and suit summons to the defendants through speed post and court, if PF paid. R/by 27.08.2026.

IX A.C.C. & S.J., Bengaluru.