

ORDER ON I.A.NO.I

The plaintiffs have filed I.A.I U/o. XXXIX Rule 1 & 2 of C.P.C., seeking to restrain the defendants from obstructing the peaceful possession and enjoyment of suit schedule property bearing R.S.No.49/10 measuring 02 acres 06 guntas of Naganur PA village, Athani taluk, till disposal of this suit.

Heard the counsel. Perused the plaint, contents of I.A.I and accompanying affidavit and documents produced along with plaint. On careful scrutiny of the ME No.818 dated 05.06.1969, it appears that name of plaintiff No.1 was came to be entered in the revenue records of the suit schedule property. Further, it can be seen that defendant No.1 herein had filed a suit vide O.S.No.833/2009 against the plaintiffs herein for the relief of declaration and permanent injunction in respect of the same suit schedule property. That the said suit was came to be dismissed on 17.08.2020. Further, it can be seen that inspite of the decree the defendant No.1 has

sold the suit schedule property in favour of defendant No.3 through a registered sale deed dated 19.12.2020. The said O.S.No.833/2009 filed by the defendant No.1 herein for the relief of declaration and injunction was came to be dismissed. But still he has executed the registered sale deed in favour of defendant No.3. Hence, this court is of the opinion that the plaintiffs have made out the prima-facie case at this stage. This court opines that if the notice of I.A.No.-I is ordered to be issued before granting an ex-parte ad-interim injunction, the purpose of granting ex-parte injunction would be defeated and become infructious by delay in service of notice and plaintiffs may put to loss and injury. Hence, this court inclined to grant the Ex-parte ad-interim Injunction order, by dispensing with notice as contemplated under order XXXIX Rule 3 of C.P.C. Accordingly, this court proceeds to pass the following.

::ORDER::

The defendants are hereby restrained

from causing obstruction to the possession of suit schedule property till next date of hearing.

The plaintiffs shall comply with provisions of order XXXIX Rule 3(a) and 3 (b) of C.P.C forthwith. In the event of plaintiffs fail to comply with the order within prescribed time, the TI stands cancel automatically.

Issue notice of I.A.No.I and suit summons to the defendants through court.

R/by : 11.06.2021.

[Lakshmi Narasimha R. V,]
IV Addl. Civil Judge & JMFC,
Athani.