

21.06.2024:

ORDER ON I.A. No. I

This is an application filed under Order 39 Rule-1 and 2 R/w. Section 151 of CPC to restrain the defendants, their men, servant or any person claiming through them from interfering with the peaceful possession and enjoyment of suit schedule property bearing CTS No.1709/B of Kundgol Town.

2. This is a suit for declaration and consequential relief of perpetual injunction. After institution of the suit, the suit have been issued to defendants. In response to the suit summons the defendants have entered their appearance by engaging the counsel, but they

have not chose to file their objection to IA No.1 and even they did not chose to file their written statement.

3. In the plaint as well as in the affidavit filed in support of the application, is stated that by virtue of family arrangement and settlement between plaintiffs' mother namely Smt. Sharawwa and defendant mother of plaintiffs has become the owner and she was put to a possession of suit property bearing G.P3/B. The property extract stands in the name of plaintiffs' mother Sharawwa. During her life time she has taken electricity connection to the suit property and she was regular in paying tax of suit property and electricity bill. After her demise the plaintiffs being legal heirs have continued with possession as before and they are in actual physical possession and possession enjoyment of the suit property. It is alleged that the defendants are trying to disturb their possession. Hence prayed for exparte Temporary Injunction.

4. In support of their pleadings the plaintiffs have produced property extract standing in the name their mother Sharawwa, tax paid receipt, electricity bills and receipts At

this stage of the proceeding on perusal of revenue extracts the plaintiffs are able to make out their possession. On other hand the defendant though have appeared through their counsel, but they did not chose to file written statement or objection to IA-1. Hence I am of the opinion that at this stage the plaintiffs have made out an arguable case. If temporary relief is not granted, there is possibility of defendants dispossessing the plaintiffs. Hence I am of the opinion that balance of convenience lies in favour of plaintiffs and irreparable loss and hardship will be caused to them in the event of dismissal of application. In such of circumstances, by grating the temporary injunction restraining the defendants from interfering into plaintiffs' peaceful possession and enjoyment over the suit property, no harm will be caused to the defendants. On the other hand, the non granting of temporary injunction as prayed for is leads to complication of suit and unnecessary complications. Therefore, I found the prima facie case and balance of convenience and other species of granting of temporary injunction and as such, I proceed to pass the following:-

ORDER

IA No.I filed under Order 39 Rule 1 and 2
R/w Sec. 151 of CPC is hereby allowed.

The defendants, their followers, henchman, agents, any person claiming through them are hereby restrained by way of temporary injunction from interfering with the peaceful possession and enjoyment of suit property by the plaintiffs or forcibly dispossessing them out of the suit property until disposal of the suit.

Senior Civil Judge, Bailhongal.

For compliance of under Section
89 of CPC. Call on 09-07-2024.

Sr.C.J., Bailhongal

