

OS No. 255 of 2019

**ORDER ON I.A. No.1 OF 2018 FILED UNDER SECTION
80(2) OF CPC**

The plaintiffs have filed I.A.No.1 of 2018 under Section 80(2) R/w Section 151 of CPC praying to permit them to file the suit against the defendants/Government by dispensing to issue of notice as contemplated under Section 80(1) of CPC. In the annexed affidavit it is contended that, the plaintiffs have filed the present suit for the relief of perpetual injunction against the defendants, restraining them from making any sort of formation of road over the suit property.

It is further averred that, inspite of repeated request made by these plaintiffs the defendants trying to form the road over the suit property belongs to them. The construction work is in progress and there is no time sufficient time is available to issue of statutory notice as contemplated under Section 80(1) of CPC. Hence it is prayed to allow the I.A. No.1 and permit the plaintiff to proceed with the matter.

Heard the argument. Perused the entire record. The object of the notice contemplated by Section 80, CPC is to give to the concerned Government and public officers opportunity to reconsider the legal position and to make amends or settle the claim, if so advised without litigation. The legislative intention behind that section is that public money and time should not be

wasted on unnecessary litigation and the Government and the public officers should be given a reasonable opportunity to examine the claim made against them lest they should be drawn into avoidable litigation. The purpose of law is advancement of justice.

At this moment, this court is of view that issuance of prior notice to the defendants may be dispensed. It is just and necessary to order for issue of emergent notice prior passing any order restraining the defendants from their work. Therefore, this court the I.A. filed by the plaintiffs under Section 80(2) of CPC is hereby allowed.

Issue emergent notice on I.A.No2/2018 filed under Order 39 rule 1 and 2 of CPC and Suit summons to the defendants through RPAD and through Court process. If process fee is paid.

Returnable by 11.10.19.

II A.C.J. & JMFC, Chikodi.