

ORDER ON IA No.1

Perused the plaint averments, I.A.No.1 along with affidavit and documents produced by the plaintiffs. On perusal of the check slip there is no caveat filed in this case. The suit is for permanent injunction.

This is an application filed under Order XXXIX Rule 1 & 2 R/w Sec.151 of CPC praying to issue ad-interim, ex-parte temporary injunction against the defendant be restrained from interfering with the ongoing demolition and construction of suit property of plaintiff in any manner till the disposal of the suit.

I have heard and perused the documents available at this stage.

It is the case of the plaintiff that, the plaintiff and defendants were the member of joint family members long ago, and due to the partition there was severance in the joint family status and properties were partitioned and all are enjoying their respective properties. That the Sy. No.2/2/2A+2B fell to the share of father of plaintiff and father of plaintiff settled some portion in said land in favour of plaintiff to aid the

plaintiff to construct a house. That the plaintiff got permission to construct the house and she was also beneficiary under Ashraya Yojana Scheme. Accordingly plaintiff constructed a house in 2005 which is bearing No.989 and standing in her name and said house property is suit property in this case. That now after lapse of 20 years the structure lost its quality and therefore, plaintiff intended to demolish and reconstruct the house. The plaintiff has accordingly obtained permission from Panchayat office but the defendant has started obstructing the plaintiff. The defendant is the neighbour as well as cousin of plaintiff. This being the fact defendant being a greedy person is trying to make unlawful gain out of situation is trying to hindering the reconstruction work of suit property by plaintiff.

The plaintiff in support of her case has filed certificate issued by Khodanapur Panchayat office, certified copy of construction permission issued by Khodanapur Panchayat office, certified copy of hand sketch of suit property issued by Khodanapur Panchayat office, tax extracts and VPC extracts etc.,.

The documents shows that the suit property is standing in the name of plaintiff. However, the

defendant causing interference to the plaintiff to demolish and reconstruct the property and thereby causing interference to the peaceful possession and enjoyment of property by the plaintiff.

This Court is very much conscious that, granting of injunction after issuing the notice is a rule and granting of an ex parte injunction is an exception. However, upon perusal of the documents, the plaintiff has made out the prima facie case which is nothing but an arguable case at this stage. Therefore, I am inclined to grant the order of temporary injunction against the defendant. With these observations, I proceed to pass the following;

ORDER

The defendant is hereby restrained from interfering with peaceful possession of plaintiff over the suit property in any manner till next date of hearing.

Since ex parte injunction is granted, the plaintiffs shall comply the following conditions as per Order XXXIX Rule 3 (a) of CPC.

The plaintiff shall send

- 1) The copy of the interlocutory application along

with affidavit to the defendant.

2) The copy of the plaint.

3) The copies of the documents on which the plaintiff had relied to get this injunction.

4) Sl. No.1 to 3 documents shall be sent by registered post.

5) The plaintiff shall file an affidavit to the office regarding the compliance of all the conditions from Sl. No.1 to 4 on this very same day or on the day immediately following this day.

Needless to say, non compliance of any of the aforesaid 5 conditions, the exparte injunction granted will be vacated.

Issue suit summons, TI order and notice on IA No.I to defendant if the PF and necessary copies are furnished and if aforementioned conditions are complied.

Call on 06.01.2026.

02.12.2025

Civil Judge & JMFC, Kittur