

ORDER ON IA No.I

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 defendants, their agents, servants or anybody acting on their behalf are restrained from encroaching or obstructing & interfering on the setback area of 3 feets of suit properties of plaintiffs in any manner till the disposal of the suit.

I have perused the documents available at this stage.

It is the case of the plaintiffs that, the plaintiffs are in peaceful possession and enjoyment of suit properties and they are using the suit properties to store the fertilizers and agricultural products and paying regular tax to the panchayat authorities. The defendants are the owner of the property adjacent to the suit

properties to the Northern side and they have constructed the residential house without following the rules and norms of the Panchayat authority and without leaving set back space, and started construction of house and thereby attempted to put windows facing to the open premises of plaintiffs. The plaintiffs have objected the same & also given complaint to the panchayat authority and after intervention of panchayat authorities defendants have given consent not to put any windows facing suit premises and the matter was solved. Later on 21.08.2025 at about 10.30 a.m. when plaintiffs are in shed all the defendants along with their hired men entered in to the suit properties & illegally putting up permanent structure on the setback area left by plaintiffs. Hence, this suit.

The plaintiffs have also produced VPC extracts, registered sale deed, photos & complaint etc.,.

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 plaintiffs have 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 defendants. With these observations, I proceed to pass the following;

ORDER

The defendants their agents, servants or anybody acting on their behalf are hereby restrained from encroaching or obstructing & interfering on the set back area of 3 feets of the suit properties of plaintiffs in any manner till next date of hearing.

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

The plaintiffs shall send

- 1) The copy of the interlocutory application along with affidavit to the defendants.
- 2) The copy of the plaint.
- 3) The copies of the documents on which the plaintiffs had relied to get this injunction.

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

5) The plaintiffs 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 all the defendants if the PF and necessary copies are furnished and if aforementioned conditions are complied.

Call on 25.09.2025.

09.09.2025

Civil Judge & JMFC, Kittur