

OS No.711/2024

Case called out.

Plaintiff is absent

Heard the learned counsel
appear for plaintiff on IA No.I to III.

ORDER

The plaintiff has filed the IA No.I under Section 80 of Civil Procedure Code, 1908 praying for dispensation of issuance of statutory notice against defendants No.5 & 6.

The GPA Holder of plaintiff has filed the IA No.II under Order XXXIX, Rule 1 and 2 of Civil Procedure Code, 1908 praying for grant of ad-interim temporary injunction for restraining defendants No.5 & 6 from releasing compensation in favour of defendants No.1 to 4 during pendency of the suit.

The plaintiff has filed the IA No.III under Section 31 of Land Acquisition Act praying for issuance of direction to defendants No.5 & 6 to deposit of compensation relating to acquisition of suit land.

IA No.I to III are supported with affidavit duly sworn by the GPA Holder of applicant/plaintiff. It is stated in the affidavit that the defendants No.1 to 4 being the owners of the suit land agreed to sell it for total Sale Consideration of Rs.34,00,000/- and executed Registered Agreement of Sale dated 20-12-2016 by receiving advance of Rs.12,18,000/-. It is further stated that the plaintiff is ever ready and willing to perform his part of the contract but the defendants have failed and refused to perform their part of the contract. It is further stated that khatha of the suit land is standing in the name of defendant No.2 and late Puttamma who is the mother of defendant No.1. It is further stated that in the meanwhile suit land has been acquired by defendants No.5 & 6 authorities and

now, defendants No.1 to 4 by taking undue advantage of name of defendant No.2 and late Puttamma who is the mother of defendant No.1 in the Revenue Records is trying to get release the compensation from defendants No.5 & 6 and hence the present suit is filed for specific performance with other reliefs along with suit along with IA No.I.

It is further stated that matter is very urgent and therefore, IA No.II is filed for dispensation of issuance of statutory notice to defendants No.5 & 6 under section 80 of CPC.

Perused the application, affidavit filed in support of application, plaint averments and documents placed on record.

On combined reading of the application, affidavit filed in support of application, plaint averments and documents placed on record, it appears to me that the defendants No.1 to 4 have executed Registered Agreement of Sale on 20-12-2016 by agreeing to sell the suit land for total Sale Consideration of Rs.34,00,000/- and received advance of Rs.12,18,000/- and now, the suit land has been acquired by defendants No.5 & 6 authorities and khata of suit land is standing in the name of defendant No.2 and late Puttamma who is the mother of defendant No.1. In spite of issuance of legal notice, the defendants No.1 to 4 have not performed their part of the contract. It also appears to me that plaintiff is willing to perform his part of the contract, but the defendants have failed to perform their part of the contract. By looking to the fact and circumstances of the case, it appears to me that the defendants No.1 to 4 may receive the compensation and defendants No.5 & 6 may release the compensation and in that event, it multiplies the proceedings and it will cause hardship and inconvenience to the plaintiff. Hence at this

state I am of the opinion that, the apprehension of the plaintiff is well founded and in order to avoid the multiplicity of the litigation, passing of ex-parte temporary injunction is the need of the situation. Hence, I proceed to pass the following:

ORDER

IA No.I is allowed and issuance of dispensation of notice to defendants No.5 & 6 is dispensed with.

The defendants No.5 & 6 are hereby restrained from releasing the compensation relating to acquired suit land bearing No.118B-7 (New Sy.No.118), measuring 01-00 acre, situated at Cheemachanahalli Village, Channarayapatna Hobli, Devanahalli Taluka in favour of defendants No.1 to 4 by way of ad-interim exparte temporary injunction.

This order will be in force till filing of objection to IA No.I by the defendants No.5 & 6.

The plaintiff is directed to comply mandatory provision of Order XXXIX, Rule 3 (a) and (b) of Civil Procedure Code, 1908.

Issue this ex-parte order of temporary injunction if mandatory provision is complied.

Issue suit summons to defendants No.1 to 4 and issue suit summons and notice on IA No.II & III to to defendants No.5 & 6.

Returnable by: 10-09-2024

**Prl. Senior Civil Judge & J.M.F.C.
Devanahalli.**