

Case called out.

Plaintiff is absent.

Heard the arguments advanced
by the counsel appeared for
plaintiff on IA No.1.

ORDER

The plaintiff has filed the IA No.1 under Order XXXIX, Rule 1 and 2 of Civil Procedure Code, 1908 praying for grant of ad-interim temporary injunction for restraining the defendant from putting up any sort of construction in encroached 'C' schedule property during pendency of the suit.

IA No.1 is supported with affidavit duly sworn by the applicant/plaintiff. It is stated in the affidavit that the plaintiff is the owner of the suit 'A' schedule property and defendant is the owner of 'B' schedule property. It is further stated that 'A' schedule property is situated on the Northern side of the 'B' schedule property. It is further stated that defendant encroached 'C' schedule property which is the part and parcel of suit 'A' schedule property and situated on the Northern side. It is further stated that defendant encroached 'C' schedule property and trying to putting up compound and hence, the present suit is filed by the plaintiff for Declaration, Possession and consequential relief of Permanent Injunction along with IA No.1.

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 plaintiff is the owner of 'A' schedule and defendant is the owner of 'B' schedule and they are abutting to each other. It also appears to me that 'C' schedule is the part and parcel of the 'A' schedule property and defendant is constructing compound in the encroached portion. By looking to the fact and circumstances of the case, it appears to me that defendant may construct compound or any structure in the encroached portion 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

The defendant is hereby restrained from constructing compound or any structure in 'C' schedule property by way of ad-interim temporary injunction.

This order will be in force till filing of objection to IA No.1 by the defendant.

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 notice of IA No.1 and suit summons to defendant.

Returnable by: 16-11-2024

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