

Date 10.01.2023

O. S. No. 15/2023

Case called out.
Plaintiff absent
Heard l/c for plaintiff on IA No. 1.
For orders on IA No. 1 by

ORDERS ON IA NO. I

As per office note there is no caveat is pending.

Case called out. Plaintiff called out absent. Heard the learned counsel Sri.MBA for the plaintiff on IA No.I, perused plaint averments, IA, affidavit and documents. The plaintiff has filed this suit against the defendant seeking the relief of declaration and permanent Injunction with respect to suit property.

I.A.No.I is filed under the provisions of Order 39 Rule 1 and 2 of CPC, seeking ad-interim exparte temporary injunction.

Heard the learned counsel for plaintiff on I.A.No I and perused the materials on record.

Learned counsel for plaintiff has contended that, plaintiff has filed this suit against defendant seeking the relief of declaration and permanent Injunction and plaintiff is the owner of the suit property and defendant are causing obstruction to the peaceful possession and enjoyment of suit property. He has also contended that, if exparte Temporary Injunction order is not granted, very purpose of filing suit will be defeated and on the

contrary, no kind of loss or hardship will be caused to other side. He has also submitted that, plaintiff has made out prima-facie case and balance of convenience lies in favour of plaintiff. Therefore, he prayed for allowing the application and to grant exparte Temporary Injunction order as prayed in the application.

Materials on record disclose that, plaintiff has filed this suit against defendant seeking the relief of declaration and permanent Injunction and subject matter of suit is the agricultural property. In a decision of Hon'ble High Court of Karnataka reported in **Kanna Belchada -vs- Ramappa Poojaray & Anr, 1975 (2) KLJ 462** in which it is held that,

Where the subject matter of the land is agricultural land civil court must issue notice to the defendants and considered thier objections before making an order of Temporary Injunction.

Even as section 4 of **KARNATAKA LAND REFORMS (SECOND AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT 1974**, which reads as follows?

Notwithstanding anything contained in any law, no civil Court shall grant Temporary Injunction in respect of an agricultural land except after service of notice of the application for the same on the defendants.

Since subject matter of suit is the agricultural property and Court can not grant exparte Temporary

Injunction order without hearing defendants as held in the decision referred above and mandate of law. So I feel it just and proper to hear both parties and pass appropriate order on the merits of application. So, I proceed to pass the following:

:-ORDER:-

Issue emergent notice of I.A.No.I and suit summons to the defendant if process fee is paid.
Returnable by 23.01.2023.

Prl. Civil Judge & JMFC
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