

ORDERS ON AD-INTERIM PRAYER

The plaintiffs have filed the present suit against the Defendants - Government and Public Officers seeking the relief of permanent injunction restraining them from committing trespass, removing the fence, digging the trench and dispossessing the plaintiffs in any way from the suit schedule property.

2. The plaintiffs have also filed I.A. No.II under Order 39 rule 1 & 2 of Code of Civil procedure seeking interim order of temporary injunction as same as the main prayers.

3. Heard the learned counsel for Plaintiffs and also perused the materials on record.

4. The plaintiffs have contended that the suit property was granted vide grant certificate No.38/1982-83 in the name of Sri.Muddaiah who is none other than the husband of plaintiff No.1 and father of plaintiff No.2 and 3. Pursuant to the grant, the revenue entries with respect to suit property was mutated in the name of said Muddaiah and after his demise, the revenue entries with respect to suit property is mutated in the name of plaintiffs. Though some portion in Sy.No.300 of Kooloor Village was reserved for Forest Department in the year 1993-94, later the said land was taken back by the revenue department in the year 1998-99. Therefore the forest department has nothing

to do with respect to the land in Sy.No.300 much less the suit property. In spite of the same, on 26.05.2023 as per the advise of defendant No.2, the defendant No.3 along with his subordinates made attempts to commit trespass into the suit property from southern side, tried to remove fence and also made attempts to the trench over the suit property in order to dispossess the plaintiffs.

5. The plaintiffs have produced revenue documents, tax paid receipts and also the survey sketch which prima-facie supports their contentions with respect to the possession over the suit property whereas in the present suit Hon'ble Prl. Civil Judge, Mudigere by its order dtd: 14.06.2023 has allowed I.A.No.I filed by the plaintiffs under Section 80(2) CPC and thereby dispensed the statutory notice against the defendants as required under 80(1) of CPC.

6. Herein the present case, though the plaintiffs have made out prima-facie case at this juncture, Sec.80(2) of CPC mandates that no relief either interim or otherwise shall be granted unless the Government or Public Officer are given reasonable opportunity to submit on the suit. Therefore, this Court considers to issue suit summons and emergent notice on I.A.No.II to the defendants. Hence, the following:

ORDER

Issue suit summons and emergent notice
on I.A.No.II to the defendants r/by: 23.06.2023.

Sd/-

(VISHWANATH A.)
Addl. Civil Judge & JMFC,
MUDIGERE.