

IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT TARIKERE

Present : SMT.PAVITHRA.M.D, B.A., LL.B.,
C/c Addl. Civil Judge & JMFC. Tarikere.

O.S.No.314/2015

Dated this 13th day of November 2018

ORDER ON IA.No.14 AND 16

The plaintiffs have filed application under Order 39 Rule 4 R/w Sec.151 of CPC to vacate the order passed on IA.No.1 dated 04.11.2015.

2. It is averred in the affidavits annexed to the applications that, the plaintiff has filed this suit on the strength of forged document and the same is questioned by the defendants in PCR.No.2/2016 before the Addl. JMFC at Tarikere. It is further averred that, on the strength of interim order passed by this Court on IA.No.1, the plaintiff has filed application alleging that, the defendants have violated the orders passed by this Court. It is further averred that, defendant No.1 has executed a registered sale deed on 06.02.2016 in favour of the 2nd defendant prior to orders passed by this Court. The plaintiff also filed an application U/Or.39 Rule 2(a) of CPC R/w Sec.12 of Content of Courts Act against the defendants. Since, the plaintiff has filed this suit on the strength of forged document it is necessary to vacate the exparte order passed by this Court on 04.11.2015. Hence, these applications.

3. The plaintiff has resisted the application by filing his objection statement wherein he stated that, this Court granted an order of temporary injunction against the defendants restraining defendant No.1 from alienating the suit schedule properties in favour of the 2nd defendant. But they executed a registered sale deed on 06.02.2016 by violating the order passed by this Court dated 04.11.2015. Till today the *exparte* temporary injunction order is in force. Hence, the plaintiff submitted that, the application filed by the defendants become infructuous and doesn't arise for consideration in view of violation of an order of temporary injunction. Hence, he prayed to reject the applications with exemplary cost.

4. Heard on IA.No.14 and 16.

5. Perused the applications in the backdrop of materials available on record. The plaintiff has filed this suit for specific performance of the contract dated 27.01.2009. In the present suit this Court has granted *exparte* order of temporary injunction in favour of the plaintiff restraining the 1st defendant from alienating the suit schedule property in favour of the 2nd defendant. It is admitted fact that, the 1st defendant has executed a registered sale deed in favour of the 2nd defendant. It is not in dispute that, the plaintiff also filed a petition U/Sec.94(c) R/w Or.39 Rule 2(a) against the defendant in C.Mis.No.16/2016 alleging that, the defendants have violated the orders passed by this Court. Since, the 1st

defendant has executed a registered sale deed in favour of the 2nd defendant, no purpose will be served if an order of temporary injunction is in force or vacated. Accordingly, I proceed to pass the following:

ORDER

IA.No.14 and 16 filed under Order 39 Rule 4
R/w Sec.151 of CPC are hereby stands disposed
off.

Sd/-

**(PAVITHRA.M.D)
C/c ADDL. CIVIL JUDGE AND
J.M.F.C., TARIKERE.**