

ORDERS ON IA NO. I & II

Since, these two applications are in consequence of same provision seeking similar relief hence, both applications have been taken up together for a common consideration.

This is suit for permanent injunction seeking an order against the defendants not to interfere with the possession of the plaintiff over the suit schedule property.

Plaintiff along with the plaint, has filed two applications seeking the dispensation of issuance of notice to the defendants on I.A.No.II which is temporary injunction application u/o 39 rule 1 and 2 over suit schedule property.

Heard counsel for plaintiff and perused the materials on record.

Plaintiff has produced photocopy of sale deed dated 15.07.2010, Mutation MR No.4/2010/11, Copy of the alien invasion, xerox copy of gift deed dated 30.03.2017, E-swathu, tax paid receipt, three photos and CD.

As the suit is for bare injunction and the documents annexed to the plaint prima facie reflect that plaintiff has a right over the suit properties however the authenticity of which is to be decided after a full-fledged trial.

On scrutinizing the documents placed on record this court opines that plaintiff has made out prima-facie case against the defendant. Therefore, at this stage, on considering the facts and nature of the case, it is necessary to allow I.A.No.I. as if I.A.No.I and if it is not allowed, the object of granting the injunction would be defeated by delay and it may give rise to multiplicity of the proceedings.

Consequently, this court deems it necessary to grant ex-parte permanent injunction in favour of the plaintiff, moreover, this order will not prejudice the interest of the defendant as it preserves the suit properties.

Therefore, this Court proceeds to pass the following;

ORDER

IA No.2 is hereby allowed.

Consequently, the defendant, his representatives, his agent, or any person acting on behalf of the defendant is hereby temporarily restrained from interfering with peaceful possession and enjoyment of the plaintiff over the suit properties till next date of hearing.

Issue ex-parte ad interim TI order only after compliance of order 39 rule 3A of C.P.C by plaintiff.

Issue suit summons, notice on I.A. 2 and order of ex-parte TI to the defendant if P.F is paid.

Since, this Court has issued the order of ex-parte temporary injunction by dispensing the

notice on IA No.2, IA No.1 does not survive.
Hence the same is disposed off.

R/by

**I Addl. Civil Judge & JMFC.,
Holenarasipura.**