

ORDERS ON I.A. NO.II

The plaintiff has filed the present suit for the relief of Permanent Injunction in respect of the suit schedule property against the defendants. The plaintiff has also filed IA No.I seeking to restrain the defendants from encroaching the suit schedule property and form the road in the suit schedule property till disposal of the suit.

Heard the counsel for the plaintiff and perused the documents.

On perusal of the copy of order passed by the Assistant Commissioner, Sakaleshpura vide dated 19.10.2023 , it appears on prima-facie that the Assistant Commissioner has ordered to remove the illegal shed constructed by defendant No.1 herein for the purpose of road. Now, the plaintiff has contended that defendant No.1 has filed a suit in O.S.No.190/2021 for the relief of injunction in respect of the shed. Whereas, the interim order has got vacated. Now, in order to safeguard the said illegal shed the defendants are trying to form the road in the suit schedule property.

At the time of the arguments, the learned counsel for the plaintiff has argued that the defendants are trying to form the road in the suit schedule property and trying to encroach the same. Hence, on prima-facie it appears that the plaintiff has made out prima-facie case and balance of convenience lies in her favour. Therefore, this court opines that ordering notice to the opponents would delay the proceedings and results in the suit becoming infructuous and if the application is not allowed the plaintiff will be put to hardship and inconvenience and if ex-parte temporary injunction is not granted the very purpose of the suit will be defeated. Hence, I proceed to pass following;

ORDER

The defendants, their agents, servants or anybody acting on behalf of them are hereby restrained from forming road in the suit schedule property, till next date of hearing.

It is made clear that this order is not with respect to alleged shed as ordered by the Assistant Commissioner, Sakaleshpura.

The plaintiff is hereby directed to comply order 39 Rule 3 of CPC.

Office is hereby directed to issue Notice on I.A.No.II, order of ex-parte injunction after compliance. Issue S/S to defendants, R/by 27/06/2024.

Addl. Civil Judge & JMFC.,
Sakaleshpura.

ORDERS ON I.A. NO.I

The plaintiff has filed the present suit for the relief of Permanent Injunction in respect of the suit schedule property against the defendants. The plaintiff has also filed IA No.I seeking to restrain the defendants from interfering with the possession of the suit schedule property till disposal of the suit.

Heard the counsel for the plaintiffs and perused the documents.

On perusal of the sale deeds, it appears on prima-facie that as per the sale deed a road is situated towards the western side of the properties. Further, the plaintiff has contended that suit schedule 'C' road is available for the purpose of reaching towards their houses and the public toilets.

At the time of the arguments, the learned counsel for the plaintiff has argued that the defendants are trying to putting up construction. Further on perusal of the photographs, it appears that the construction work has not yet started. Hence, on prima-facie it appears that the plaintiff has made out prima-facie case and balance of convenience lies in his favour. Therefore, this court opines that ordering notice to the opponents would delay the proceedings and results in the suit becoming infructuous and if the application is not allowed the plaintiff will be put to hardship and inconvenience and if ex-parte temporary injunction is not granted the very purpose of the suit will be defeated. Hence, I proceed to pass following;

ORDER

The defendants, their agents, servants or anybody acting on behalf of them are hereby restrained from putting up the construction on suit schedule 'C' property road till next date of hearing.

The plaintiff is hereby directed to comply order 39 Rule 3 of CPC.

Office is hereby directed to issue E/N on I.A.No.I, order of ex-parte injunction after compliance. Issue S/S to defendants, R/by 07/10/2021.

Addl. Civil Judge & JMFC.,
Kunigal.