

KAHV310014562022



Presented on : 28-10-2022
Registered on : 28-10-2022
Decided on : --
Duration :

The plaintiffs have filed present suit against the defendants for the relief of partition and separate possession of their share in the suit schedule properties and for such other reliefs.

Along with the main suit, the plaintiff No.1 has filed I.A.No.II under section 94 (c) of CPC seeking to restrain the defendants from receiving the compensation amount of Rs.3,53,906/- from the land acquisition authority in lieu of acquisition of 24 guntas out of total extent in item No.1 of "A" suit schedule property by way of ad-interim ex-parte temporary injunction till disposal of suit.

Perused the plaint averments, I.A.No.II, its accompanying affidavit and documents relied upon by the plaintiffs at this stage. On perusal of the same, it is pleaded and deposed that, originally propositus of plaintiffs and defendants Sri. Yallappa S/o Basappa Basanala said to had purchased item No.1 of "A" suit schedule property from its

vendors Sri.Chamanasab S/o Khadarsab Naregal under register sale deed dated 19-04-1968 and later from Sri. Veerappa S/o Gadigeppa Mahanthashettar under register sale deed 20-08-1991 and accordingly was in joint possession and enjoyment of the said property along with plaintiffs and defendants. It is further pleaded that, out of income derived from item No.1 of "A" of the suit schedule property, the plaintiff No.1 has purchased item No.2 of "A" suit schedule property on 20-12-1980. Such being the situation, the land acquisition authority said to have acquired 24 guntas in item No.1 of "A" suit schedule property and fixed compensation amount of Rs.3,53,906/- of which the defendants alleged to have been making hectic efforts to get release the said compensation amount without knowledge of the plaintiffs. Hence, it is sought to grant ad interim exparte temporary injunction to restrain the defendants.

In the aforesaid material pleadings, on perusal of documents relied by the plaintiffs in the form of mutation entries in M.E.No.1504, 1959 and 2891, prima faice indicates that, item No.1 of "A" suit schedule property originally self acquired property of propositus Sri. Yallappa Basanala. Further, on perusal of award notice dated 22-08-2022 it is made clear that, out of total extent of 1 acre 35 guntas, 24 guntas is subject matter of acquisition. As per relationship explained in the genealogy annexed to the

plaint, the plaintiff No.1 is wife, plaintiff No.2 to 4 are daughters of propositus Sri.Yallappa and their right over the suit schedule properties shall be adjudicated. Moreover, record of right in respect to item No.1 of 'A' suit schedule property jointly stood in the name of plaintiff No.1, plaintiff No.4 and defendants. Such being the facts, case of the plaintiffs cannot be doubted at this stage and unless exparte TI is granted, there is likelihood of defendants attempts to get release the compensation amount by avoiding the plaintiffs. Therefore, facts pleaded in the plaint and affidavit annexed to the application and corroborative documents relied at this stage establish prima faice case of the plaintiffs and balance of convenience lies in their favour and irreparable loss and injury would be caused to them if injunction is refused. Moreover, very purpose of filing the suit would be defeated if the injunction is not granted and same would results in the multiplicities of the proceedings. Accordingly, the following:

ORDER

The defendants are hereby restrained from get release the compensation amount from special land acquisition officer, Ranebennur by way of exparte temporary injunction till the next date of hearing.

Issue suit summons and emergent notice of I.A.No.II to the defendants if sufficient PF is paid.

Issue order of exparte temporary injunction in favour of plaintiffs, if they comply the order 39 Rule 3(a) of the CPC.

Call on:03-12-2022.

Civil Judge & JMFC.,
Hangal.