

Order on I.A.No.I

The Plaintiff has filed the present suit against the defendant seeking for permanent injunction from interfering or disturbing the easement right of free access on the schedule 'B' road by the plaintiff, its partners, visitors, purchasers of the flats in the apartment building on the schedule 'A' property and other reliefs. Along with the plaint the plaintiff has filed an application under Order 39 Rule 1 and 2 R/w Section 151 of C.P.C. praying to grant ad-interim order of temporary injunction restraining the Defendant from interfering with the easement rights or obstructing the free access on the schedule 'B' road by the plaintiff and the purchasers of the flats constructed on the schedule 'A' property, in the interest of justice and equity.

2. In support of I.A.No.I, the plaintiff has filed affidavit stating that the plaintiff has constructed a apartment in the schedule 'A' property and the schedule 'B' property is the only access road to the same. Further, the defendant is trying to interfere with the schedule road and has obstructed the plaintiff, its partners etc., from using the said road in the schedule 'B' property. Further, the said road being the only access to reach schedule 'A' property, it is necessary to declare the same as easement right and as an interim order it is sought to grant a temporary injunction to restrain the defendant and his supporters etc., from interfering with the free access to schedule 'B' property. Hence, the plaintiff has filed the present suit seeking for permanent injunction against the defendant and the present application is filed since there is need for interference of this court. Hence, it is prayed to allow the application.

3. After hearing submission and also perusal of plaint averments and contention of affidavit, it can be seen that the plaintiff has produced his and his vendors sale deed, revenue records, conversion order, photographs, encumbrance certificate and other documents. The sale deeds produced by the plaintiff also shows a sketch with respect to schedule and the road. It is stated that the said road is the only access to the schedule 'A' property.

4. The documents furnished by the plaintiff prima facie show the possession of the suit schedule property is with the plaintiff

and also shows the schedule 'B' property stated by them. Further, the plaintiff states that there is an interference by the defendant with respect to schedule 'B' property, therefore, if the defendant is not restrained from interfering with the schedule 'B' property, then the plaintiff will be put to great hardship and irreparable loss. As such, it is necessary to restrain the defendant from doing so and for that reason balance of convenience also lies in their favour. Since, the plaintiff has made out prima facie case, it would meet the ends of justice if the exparte temporary injunction restraining the defendants from interfering with the plaintiff peaceful possession of the suit schedule property is granted. Therefore, notice under order 39 Rule 3 of CPC with respect to I.A.No.I is dispensed with. Further, the plaintiff can be directed to comply the requirements of Order 39 Rule 3 proviso of CPC. Hence, I proceed to pass the following:

ORDER

Issue exparte temporary injunction order on I.A.No.I against the defendant.

The Defendant is temporarily restrained from interfering with the easement right of the plaintiff from obstructing the free access to the schedule 'B' road by the plaintiff.

Temporary injunction is granted till next hearing date.

The plaintiff shall comply Order 39 Rule 3 proviso of CPC accordingly.

The plaintiff is directed to furnish the copy of compliance affidavit. Office is directed to issue certified copy of this order to the plaintiff after due compliance.

Issue suit summons and notice of exparte T.I order on I.A.No.I to defendant through court and RPAD if furnished.

Returnable by : 18/11/2022

(Kiran P.M.Patil),
IV Additional Civil Judge,
Bengaluru Rural District,
Bengaluru.

