

Exparte T.I. Order on IA No.I.

The applicant/plaintiff has filed this application U/O 39 rule 1 and 2 of CPC and sought to restrain the defendant by way of Ex-parte temporary injunction from putting up any construction over the suit property till disposal of the suit.

The SPA holder of the appellant/Plaintiff has sworn to an affidavit in support of IA and stated that the plaintiff is owner of the suit property. The defendant is not related either to the plaintiff or the suit property. But the defendant illegally encroached the suit property and putting up illegal construction over the suit property even without obtaining permission from the Gram Panchayat. The Hon'ble trial court without looking the documents properly has passed impugned order. The order of the trial court is not speaking order. The plaintiff is having good case to urge

before this court. Hence prays to allow the IA.

Perused the records and documents.

The copy of the plaint in O.S. No. 26/2025 on the file of trial court shows that the plaintiff had filed suit for possession and injunction in respect of property bearing Panchayat No. 2-128 measuring 30 x 30 . The written statement shows that the defendant has filed his written statement denying the plaintiff's claim and claiming title over the suit property. The tax demand register extract shows that the suit property stands in the name of the plaintiff. The same prima facie indicate that the suit property belongs to the plaintiff. The endorsement issued by the Gram Panchayat shows that plaintiff is owner of the suit property and defendant encroached the same. Another endorsement dated 12.03.2025 issued by the Gram Panchayat shows that the

defendant putting up construction over the suit property without obtaining permission from the Gram Panchayat. Another endorsement dated 07.03.2025 issued by Gram Panchayat shows that since the year 2004 the suit property has been standing in the name of the plaintiff in the tax register extracts of the Gram Panchayat. The above documents prima facie show that the suit property belongs to the plaintiff and the defendant illegally putting up construction over the suit property. Therefore, at this stage the plaintiff has made out prima-facie case.

On perusal of the order of the trial court it is seen that the trial court has erred by over looking the documents produced by the plaintiff. The trial court has failed to observe that the plaintiff has produced Panchayat records to show that the suit property belongs to him but the defendant has not produced any documents. Further the trial court has

failed to consider the fact that the defendant is putting up construction even without obtaining permission from the Gram Panchayat.

On perusal of the records prima facie is clear that the suit property belongs to the plaintiff. Therefore, at this stage if the defendant is not restrained from putting up construction over the suit property it will prejudice plaintiff and cause irreparable loss to him. Apart from this the very purpose of filing of the suit and this appeal will be frustrated. On the other hand if defendant is restrained from putting up construction for some period no loss would be caused to the defendant. Moreover, if construction is made over the suit property during pendency of the suit it will complicate the matter and may result in multiplicity of the suit. Therefore, the balance of convenience lies in favour of the plaintiff. Hence the

following.

ORDER

The respondent/defendant is hereby restrained by way of ex parte temporary injunction from putting up any construction over the suit property till further orders. The plaintiff/appellant shall comply order 39 Rule 3 of CPC.

Office to issue IA Notice, TI notice and appeal notice to respondent. The plaintiff/appellant shall pay deficit process fee if any within three days from today, failing which this order stands vacated automatically.

Returnable by 01.08.2025.

**C/c Senior Civil Judge & JMFC,
Chincholi.**