

Order on I A – II filed under 151 of CPC for police protection.

The plaintiffs have filed this application U/Sec. 151 of CPC praying therein for police protection against the defendants. In support of IA the plaintiff No.1 has filed affidavit and stated that, they have filed suit for injunction against the defendants on the ground that, they are owner in possession of suit land. Thereafter, this court has passed T I order against the defendants, but in spite of the T I order, the defendants are interfering in their peaceful possession and enjoyment of the suit property. Hence plaintiff prayed for police protection for the implementing order of this court.

On the other hand, the defendants have not filed any objection to I A - II. I have heard the advocate for plaintiffs and perused the material on hand. In this case, initially this court has granted ex-parte T.I. against the defendants. Further, it is seen from the records that, this court after hearing both sides, has passed order on I A No.I filed U/o 39 R. 1 & 2 CPC and granted T I restraining the defendants from causing obstruction to the plaintiffs over the suit property on 01.02.2016. The plaintiff filed this application for police protection stating that, even though this court has granted T I the defendants are causing and interference in peaceful possession of the suit land. In this case, the defendants have not filed any objections to I A No.II. So the conduct of the defendants shows that, they are causing obstruction to the plaintiffs

in the peaceful possession and enjoyment of suit land. The contents of the affidavit filed in support of application remained unchallenged, hence I have no reason to disbelieve the contents of affidavit. Here, I would like to rely upon the decision of our Hon'ble High Court reported in **ILR 1996 KAR 1271 in between Papanna V/s Nanachari -CIVIL PROCEDURE CODE, 1908 (Central Act No.5 1908)-Order 39 Rules 1 and 2: Section 151-Enforcement Order: direction can be given to police.**

In the said decision the Hon'ble High Court observed that, when the court has Prima facie considered the matter and has granted a temporary injunction in favour of the plaintiff after hearing the defendant, the court has to enforce the same and the contention of the defendant that he is in possession, cannot be accepted at this stage... If the court had no power to implement its own orders, then there is no purpose in the courts passing order in matters coming before them. The remedy under Order 39 Rules 2 (a) is not exhaustive and court can pass appropriate orders to see that its orders are enforced. In necessary cases, even the police can be directed to enforce the orders of this court.

In this case, even after passing order on the I A - I against the defendants and restraining them from causing obstruction to the suit land, they have not stopped their acts. Therefore, in this case, it is just and necessary to give police protection for implementation of order passed by this court. Hence, relying upon the ratio laid down in the above decision of Hon'ble I am of the opinion that, plaintiffs have made out a reasonable and sufficient grounds for granting the order of police protection for the implementation of

order of this court passed on I A - I. Hence I proceed to pass the following:

ORDER

I A - II filed by the plaintiff Under Section 151 CPC is hereby allowed. The PSI of Wadi Police Station is hereby directed to give police protection for implementation of order passed by this court on I A - I. Office is directed to issue direction to the concern police forthwith.

No order as to cost.

Call on: 29.03.2016.

(K.S.Rotter)
Civil judge Chittapur