

28.8.2024

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

The plaintiff has filed this application U/O 39 rule 1 and 2 of CPC and sought to restrain the defendant by way of exparte temporary injunction from alienating the suit property till disposal of the suit.

The plaintiff has sworn to an affidavit in support of IA and stated that the defendant agreed to sell the suit property to the plaintiff for a sale consideration amount of Rs.17,76,000/- and received part sale consideration amount of Rs.16,76,000/- and executed registered agreement of sale dated 6.9.2019. The defendant agreed that he will execute the sale deed within two years by receiving balance sale consideration amount of Rs.1,00,000/-. The plaintiff is ready and willing to perform his part of the contract. But the defendant is not ready to execute the sale deed. Now he is trying to alienate the suit property. Hence, prays to allow the IA.

Perused the records. Heard arguments.

The suit is one for the relief of specific performance of contract of sale. The original registered agreement dated 27.8.2019 shows that the defendant agreed to sell the suit property to the plaintiff for a sale price of Rs.17,76,000/- and received Rs.16,76,000/- and agreed to execute the sale deed within two years. Prima facie it appears that the plaintiff and defendant entered into sale transaction. Therefore, at this stage the plaintiff has made out prima facie case. If at this stage the defendant is not restrained from alienating the suit property and if he alienates the suit property during pendency of the suit it will cause much inconvenience to the plaintiff. Therefore, at this stage the plaintiff has made out prima facie case

and balance of convenience lies in his favour.
Hence the following:

ORDER

The defendant is hereby restrained by way of ex parte temporary injunction from alienating the suit property till next date of hearing.

The plaintiff shall comply Order 39 Rule 3 of CPC.

Office to issue IA notice, TI notice and suit summons to defendant.

The plaintiff shall pay deficit process fee if any within three days from today, failing which this order stands vacated automatically.

Returnable by 01.10.2024.

Senior Civil Judge & JMFC, Sedam.