

**ORDERS ON IA NO.II&III**

The plaintiff has filed this suit against the defendant for the relief of permanent injunction restraining the defendant, his men, agents, servants or anybody else claiming under or through him from interfering or trespassing into the suit schedule property.

The plaintiff has filed IA No.II under Order XXXIX Rule-3 of CPC seeking to dispense with the issue of prior notice on I.A.No.II to the defendants. Further, he also filed I.A.No.III under Order XXXIX Rule 1 and 2 of CPC seeking an ad-interim order of temporary injunction restraining the defendant from interfering or trespassing into the suit schedule property.

Perused the plaint averments, the IAs filed and connected affidavits sworn to by the plaintiff and the documents appended to the list. In affidavit accompanying to the IA No.III the plaintiff has sworn to an affidavit and stated that he is the absolute owner in possession of the suit schedule property. Originally the suit schedule property belonged to his grandfather Sri Lakka. After his death the suit schedule property was devolved upon his son Sri. Mariappa i.e father of the plaintiff. After his death the plaintiff has

succeeded the suit schedule property as he being legal heir of the said Sri. Mariappa by getting the revenue records mutated in his name. Since then he has been in peaceful possession and enjoyment of the suit schedule property. Though the defendant has no manner of right, title or interest over the suit schedule property, he is interfering with his peaceful possession and enjoyment of the suit schedule property. Hence, these applications.

After perusing the materials on record and the documents produced by the plaintiff, the court at this stage is satisfied about the existence of the prima facie case and balance of convenience in favour of the plaintiff. If an exparte order of Temporary Injunction restraining the defendant from interfering with plaintiff's peaceful possession and enjoyment of the suit schedule property is not granted, the very object of granting injunction would be defeated by delay and it would lead to multiplicity of proceedings and the plaintiff would suffer irreparable loss and injury. Hence, I proceed to pass following order:-

### **ORDER**

I.A.No.II filed by the plaintiff under Order XXXIX Rule 3 of CPC is hereby allowed. Issuance of prior notice on IA No.III to the defendant before granting

injunction is dispensed. As per IA-III the defendant is hereby restrained by interim order of Temporary Injunction from interfering with plaintiff's peaceful possession and enjoyment of the suit schedule property till next date of hearing.

The plaintiff shall comply with the provisions contemplated under Order of 39 Rule 3 of CPC.

Issue Temporary Injunction notice of IA No.III and suit summons to the defendant.

Returnable by 17.07.2023.

Sd/-  
Prl.Civil Judge & JMFC.,  
Virajpet.

OK