

OS. 20/2023, dated:09-01-2023.

Shri. K.M. (Kolar) adv. is present. It is suit filed by the plaintiff for partition and Separate Possession and filed the IA.No.1 U/o. 39 Rule 1 and 2 of CPC., seeking ad interim ex parte temporary injunction to restrain the defendants, their agents, servants, family members or any other persons acting on their behalf from alienating the suit schedule properties till disposal of the suit.

On perusal of materials on record i.e., Sale deed, RTC extracts of the suit schedule properties it shows that, plaintiff has prima facie case. Therefore, before passing order on IA No.1 it is just and proper to pass an Ad-interim ex parte temporary injunction order till next date of hearing.

Hon'ble Supreme Court of India in a decision reported in (2012) 5 SCC 370 between Maria Marganda Sequeria Fernandes & others V/s. Erasmo Jack De Sequeria (dead through LRs) at para 84 and 85 held as follows;

Para-84: In order to grant or refuse injunction, the judicial officer or the judge must carefully examine the entire pleadings and documents with utmost care and seriousness. The safe and better course is to give a short notice on the injunction application and pass an appropriate order after hearing both the sides. In a case

of grave urgency, if it becomes imperative to grant an ex parte ad-interim injunction, it should be granted for a specified period, such as for 2 weeks. In those cases, the plaintiff will have no inherent interest in delaying disposal of injunction application after obtaining an ex parte ad-interim injunction.

Para-85: The court, in order to avoid abuse of process of law may also record an injunction order that, if the suit is eventually dismissed, the plaintiff undertakes to pay restitution, actual or realistic cost. While passing order, the court must take in to consideration the pragmatic realities and pass proper order for mesne profits. The court must make serious endeavour to ensure that, even-handed justice is given to both the parties.

Hence I proceed to pass the following...

– ORDER –

Ad-interim ex parte temporary injunction is granted till next date of hearing. Defendants, their agents, servants, family members or any other persons acting on their behalf are hereby restrained from alienating the suit schedule properties till next date of hearing. In the event of dismissal of the suit Plaintiff is directed to pay the losses etc., to the Defendant.

Plaintiff is directed to comply the

provisions of U/o. 39 Rule 3 of C.P.C,
issue T.I.

Issue S/S to Defendants and issue
emergent notice of IA No.1 to the
defendants.

Call on 20-02-2023.

Addl. CJ & JMFC., Bangarpet

09-01-2023.