

ORDERS

The Counsel for Plaintiff has filed the present I.A.No.2 under Order 39 Rule 3 of CPC, seeking dispensation of notice to the Defendant for consideration of I.A No.1, in view of the urgency.

The Counsel for Plaintiff has filed I.A No.1 u/O 39 Rule 1 and 2 of CPC, seeking an exparte T.I. Order, restraining the Defendant No.4, from not to create any charges over the portions of the Suit Schedule Property in any manner, either by way of either itself or through its servants, henchmen, agents, power of attorney holders or any other person or persons acting on behalf of them or claiming any right or rights in any manner whatsoever under or through it's either among or in favour of third parties, till the disposal of the Suit.

Considering the urgency that the Plaintiff is seeking urgent relief, the I.A No.2 is allowed and I.A No.1 is taken for consideration for passing exparte Orders.

The present Suit is a bonafide Suit for Declaration and Injunction filed by the Plaintiff against the defendants. The plaintiff contend that the Suit Schedule Property measuring 9 guntas carved out of Sy.No.456 has been continuously used as a pathway for ingress and egress to her lands for more than three decades. The said pathway is the only available access to her agricultural lands and without it, her land will be completely landlocked. The Defendant No. 1 to 3 executed a Sale Deed in favour of Defendant No.4, in respect of Sy.No.456, without disclosing their existing easementary right. The said Sale Deed is subject to their pre-existing right of way and does not extinguish of blocking access to her lands. The Defendant No.4, in collusion with the Defendant No.1 to 3, has recently started interfering with Plaintiff lawful use of the Suit Schedule pathway by attempting to erect fencing and by threatening the Plaintiff and her family, with the sole intention

of blocking access to her lands. Hence, it is prayed to allow the Application.

The Counsel for Plaintiff has produced xerox copies of unregistered Panchayth understanding consent deed, Aadhaar card of the Plaintiff, RTC extract, Sale Deed, photos of bhoomi map.

Upon hearing the Counsel for Plaintiff and also on perusal of the documents produced by the Plaintiff, this Court has come to conclusion that the Suit Schedule Property is to be preserved till the rights of the parties and decided on merits. Further, if the Suit Schedule Property is not protected at this stage, then the rights of the Plaintiff would be in danger and further, the Suit Schedule Property will be in danger of being damaged, destroyed. Also the prayer asked for by the Plaintiff shows that, the Plaintiff might be in possession of Suit Schedule Property. Therefore, at present, there is a need to protect the Suit Schedule Property. Hence, this Court feels that, the Plaintiff has made out prima-facie case, for grant of Exparte Temporary Injunction as sought for. Hence, the following Order is passed.

ORDER

By an Exparte T.I order, the Defendant No.4, is hereby restrained from creating any charges over the portions of the Suit Schedule Property in any manner, either by way of either itself or through its servants, henchmen, agents, power of attorney holders or any other persons acting on behalf of them or claiming any right in any manner whatsoever under or through it's either among or in favour of third parties, till next date of hearing.

Issue Ad-Interim Order of Temporary Injunction accordingly. Issue copy of this Order, with copy of Plaint, copy of documents, summons and notice, accordingly.

The Plaintiff shall comply with the provisions of Order 39 Rule 3(a) of CPC. Call on by

Sd/-

C/c I-Addl. C.J & JMFC, Malur.