



Perused the plaint, IA, annexed affidavit, the documents placed therein and heard arguments.

2. The present suit is filed by the plaintiffs against the defendants for the relief of declaration and mandatory injunction. It is submitted that plaintiffs are the absolute owners in possession and enjoyment of suit schedule property. The plaintiffs have purchased the property in Sy.No.67, but the sale deed was registered for land in Sy. No.91. Now, the defendants taking advantage of wrong mentioning of survey number in sale deed, they are trying to disposses the plaintiffs from the suit schedule property.

3. Along with the plaint, the plaintiffs have also filed interim application under order 39 Rule 1 and 2 of CPC for the interim relief. In support of the contention plaintiffs have produced several documents.

4. I have carefully perused materials available on record, the plaintiffs have produced the certified copy of the sale deed, RTC extracts, encumbrance certificates, mutation registers, survey tippany book, office copy of legal notice, certified copies of RRT proceedings, certified copy of Mahazar report prepared by revenue inspector and photogoraphs. At this stage, the apprehension of plaintiffs appears to be genuine, they have made out prima facie case. If the interim relief is not granted by dispensing the notice, great inconvenience will be caused to the plaintiffs and the very object of the suit will be defeated by

delay. Hence, it is a fit case to dispense the notice U/o 39 Rule 3 of CPC.

5. In **Ramrameshwari Devi Vs. Nirmala Devi, (2011) 8 SCC 249** Hon'ble Apex court held as under:

“39. While granting an ad interim ex parte injunction or stay order the court must record an undertaking from the plaintiff or the petitioner that he will have to pay mesne profits at the market rate and costs in the event of dismissal of interim application and the suit.

44. Usually the court should be cautious and extremely careful while granting ex parte ad interim injunctions. The better course for the court is to give a short notice and in some cases even dasti notice, hear both the parties and then pass suitable bipartite orders. Experience reveals that ex parte interim injunction orders in some cases can create havoc and getting them vacated or modified in our existing judicial system is a nightmare. Therefore, as a rule, the court should grant interim injunction or stay order only after hearing the defendants or the respondents and in case the court has to grant ex parte injunction in exceptional cases then while granting injunction it must record in the order that if the suit is eventually dismissed, the plaintiff or the petitioner will have to pay full restitution, actual or realistic costs and mesne profits.

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47. We have to dispel the common impression that a party by obtaining an injunction based on even false averments and forged documents will tire out the true owner and ultimately the true owner will have to give up to the wrongdoer his legitimate profit. It is also a matter of common experience that to achieve clandestine objects, false pleas are often taken and forged documents are filed indiscriminately in our courts because they have hardly any apprehension of being prosecuted for perjury by the courts or even pay heavy costs. In Swaran Singh v/s. State of Punjab [(2000) 5 SCC 668 : 2001 SCC (Cri) 190] this Court was constrained to observe that perjury has become a way of life in our courts.”

6. In view of above legal principles it is necessary to put the plaintiffs on terms. The plaintiffs shall file an affidavit undertaking to abide by the following conditions::

- a. If the suit is eventually dismissed, the plaintiff shall have to pay full restitution, actual costs and mesne profits, as the case may be, to the defendants; and

the plaintiff shall file affidavit undertaking to indemnify the defendants in this regard.

- b. The plaintiff shall also be liable to pay compensation to the defendants.

7. In view of the above reasoning I proceed to pass the following:

ORDER

The defendants, their men or anybody claiming under them are hereby restrained by way of an ad-interim exparte injunction from interfering with the peaceful possession and enjoyment of suit schedule property till next date of hearing.

Issue TI order, IA notice and suit summons to defendants if PF is paid, if plaintiff complies with the provisions of order 39 Rule 3(a) and (b) of CPC and if plaintiffs file an affidavit undertaking to abide by the above conditions.

Call on: 01.12.2022.

**Civil Judge and JMFC.,
Nagamangala.**