

Plaintiff absent

ORDER REGARDING GRANTING OF AD-INTERIUM
EX-PARTE ORDER OF TEMPORARY INJUNCTION

The applicant/plaintiff filed IA No.1 under order 39, Rule 1 and 2 of Civil Procedure Code for restraining the defendants temporarily from interfering with his peaceful possession and enjoyment over the suit property till pending disposal of the suit on merits.

The applicant/plaintiff filed IA No.II under Order 39, Rule 3 read with section 151 of Civil Procedure Code for dispensing the issuance of notice on IA No.I to defendants before passing ad-interium ex-parte temporary injunction at this stage.

The applications are supported with the affidavits of applicant/plaintiff duly sworn and stated that the suit property is the ancestral property of the plaintiff and he acquired it in a family partition vide registered partition deed dated 23.09.2019 and pursuant to it katha has been mutated in his favor and he is in lawful possession and enjoying the same. It is further sworn that the defendants who are the villagers are unlawfully and illegally trying to interfere with his peaceful possession and enjoyment over the suit property and hence he sought for grant of ex-parte temporary injunction.

Perused the plaint averments as well as sworn affidavits of the plaintiff filed in support of IA No.I and II also the documents produced by the plaintiff.

The present suit is filed by the plaintiff against the defendants for the relief of permanent injunction for restraining the defendants from causing obstruction or interfering with her lawful possession and enjoyment of the suit property.

The apprehension of the plaintiff at this stage is that the defendants who are the villagers having no right over the suit property are making hectic attempts to encroach upon the suit property illegally and if the defendants are not restrained, he will dispose the plaintiff from suit property and in that event the very purpose of filing the suit will be defeated and he sought for grant of ex-parte temporary injunction and if the T.I. is not granted, it will be difficult for his to restrain the defendants. The documents produced by the plaintiff shows that the suit property was the ancestral property of the plaintiff and he acquired it in a family partition vide registered partition deed dated 23.09.2019 and since then he is in lawful possession of it and defendants are causing obstruction or interfering with his lawful possession and enjoyment of the suit property. So it appears to me at this stage is that if the ex-parte T.I. order is not granted and if the notice on IA No.1 is issued to the defendants without passing any interim order, very purpose of filing the suit will be defeated. The main objective of granting temporary injunction is to preserve the subject matter intact till the conclusion of trial. In the facts and circumstances of the case, if the interim relief as prayed in IA No.I is not granted, in my opinion it will frustrate the very purpose of filing of the suit. Hence, I am of the opinion

that at this stage, plaintiff made out grounds for grant of ex-parte injunction. Therefore, I proceed to pass the following:-

O R D E R

IA No.II filed by the applicant/plaintiff under Order 39, Rule 3 read with section 151 of Civil Procedure Code for dispensing the issuance of notice on IA No.I to defendants at this stage is allowed.

Issue ex-parte order of ad-interim temporary injunction against the defendants as prayed in IA No.I.

The defendants are hereby temporarily restrained from causing obstruction or interfering with his lawful possession and enjoyment of the suit property till filing of written statement and objection to IA No.1.

Plaintiff shall comply Order 39, Rule 3 (a) of Civil Procedure Code.

Issue order of temporary injunction, if the plaintiff complied Order 39, Rule 3 (a) of Civil Procedure Code.

Issue suit summons and notice of IA No.1 to defendants.

Returnable by:- 07.09.2020

Senior Civil Judge & JMFC
H.D. Kote