

Plaintiff absent

Heard arguments on IA
No.1

Put up 3.00 PM

Senior Civil Judge & JMFC
H.D.Kote

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

The applicant/plaintiff filed IA No.I under Order 39, Rule 1 and 2 read with section 151 of Civil Procedure Code for restraining the defendants from alienating or creating any charge over the suit property till the pending disposal of the suit.

2. 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.

3. The applications are supported with the affidavits of applicant/plaintiff duly sworn and stated that defendants are the owner of the suit schedule property and executed registered Agreement of Sale on 26.09.2017 agreeing to sell the suit property for consideration of Rs. 2,12,000/- and received advance sale consideration amount of Rs. 2,00,000/-. It is further sworn that the defendants failed to perform their part of contract as per the agreement and hence the present suit is filed for specific performance. It is further sworn that now the defendants are trying to alienate the suit property and hence sought for grant of ex-parte temporary injunction.

4. 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.

5. The documents produced by the plaintiff shows that suit schedule property appears to be belongs to defendants and they have executed the registered Agreement of Sale as asserted by the plaintiff. The grievance of the plaintiff at this stage is that defendants are trying to alienate the suit property and in that event he will be put to hardship. The main objective of granting temporary injunction is to preserve the suit property 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 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:-

ORDER

IA No.I 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.II 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.

Consequently, defendants are hereby restrained from alienating or creating any charge over the suit property till filing of written statement and objection to IA No.II.

The plaintiff is directed to comply the mandatory provision of Order 39, Rule 3 of Civil Procedure Code.

**Issue suit summons and notice of IA No.II
to defendants, if sufficient process fee and
copies are furnished.**

Returnable by; 20.11.2020.

(Dictated to the Stenographer directly on computer, corrected
and then pronounced by me in the open court on this the day of
17th day of October, 2020)

(NATARAJ YADAV .S)
Senior Civil Judge & J.M.F.C
H.D.Kote