

ORDERS ON I.A.NO.1

The plaintiff has filed this suit for the relief of Mandatory Injunction and also sought for Permanent Injunction. Along with plaint, the plaintiff has also filed I.A.No.1 U/O.XXXIX Rules 1 and 2 of C.P.C., seeking an ad-interim Temporary Injunction against the 1st defendant or anybody acting on his behalf from not to run Sri. Mahadeshwara Haller and Floor Mill in the suit schedule property till disposal of the suit.

Heard the learned Counsel for plaintiff and perused the materials on record. In the affidavit the plaintiff has sworn to that he is residing Suthuru Village along with his family. The 1st defendant is

running Floor Mill in his opposite house and created nuisance and sound pollution. In this regard he approached concerned authority to shift the said Floor Mill. Accordingly, the concerned authority had passed an order dated 22.09.2023 and direct the 1st defendant to shift the Floor Mill within 180 days. But, the 1st defendant has failed to comply the order. Hence, he approached this Court for necessary relief.

The plaintiff in his affidavit has further stated that, he has made out a prima-facie case and balance of convenience lies in his favour and if ad-interim temporary injunction is not granted as prayed in I.A.No.I, he will be put to irreparable loss. Hence, the he has prayed temporary injunction as sought in I.A.No.I.

As per Rule 3 of Order 39 of the C.P.C., the power to grant an exparte-interim injunction in exceptional circumstances based on sound judicial discretion to protect the plaintiff from appended injury may be granted.

It is well settled that, while granting injunction plaintiff must show:-

- i. Existence of prima-facie case,
- ii. Balance of convenience and
- iii. The injury must be of an irreparable

loss that cannot be compensated in terms of money.

In the present case in order to grant an ad-interim temporary injunction, the plaintiff has produced copy of Order passed by the grievance redressal authority, endorsements, representations

submitted to concerned authority, copy of licence, photographs, legal notice, reply notice and postal acknowledgments. Perused the plaint averments, documents and affidavit filed in support of IA.No.1. On perusal of order passed by the grievance redressal authority and representations submitted to the concerned authority, the 1st defendant has not renewed his licence to run the floor mill and also created nuisance to the public, hence at this juncture, the plaintiff has made out grounds that, if temporary injunction order is not granted, the very purpose of filing this suit will be defeated and he will be put to irreparable loss and on the contrary no kind of loss will be caused to the 1st defendant.

At this stage, this Court satisfied with the prima-faice case, in view of copy of Order passed by the grievance redressal authority, endorsements, representations submitted to concerned authority, copy of licence, photographs, legal notice, reply notice and postal acknowledgments produced by the plaintiff. The balance of convenience is also satisfactory. Accordingly, in the ends of justice and to avoid multiplicity of proceedings, this Court proceed to pass the following:-

ORDER

Issue exparte ad-interim
Temporary Injunction order against
the 1st defendant or anybody acting on
his behalf from not to run
Sri.Mahadeshwara Haller and Floor
Mill in the suit schedule property till

next date of hearing.

The plaintiff shall comply Order 39 Rule 3(a) of C.P.C. However, the plaintiff shall file compliance affidavit and after compliance office is directed to issue T.I. order.

Issue notice on I.A.No.I, exparte T.I. order to 1st defendant and suit summons to defendants.

Returnable by 16.01.2026.

Prl. Civil Judge & J.M.F.C.,
NANJANGUD.