

ORDER

Perused the plaint, I.A.No.I filed u/Order 39 Rules 1 & 2 of CPC, I.A.No.2 filed U/o 32 Rule 4 & 5 of CPC and the connected affidavits sworn to by the plaintiff and the documents appended to the list.

The plaintiff has filed this suit against the defendants for the relief of specific performance of contract. It is the case of plaintiff that, the defendants by agreeing to sell the suit property for Rs.2,40,000/-, executed a registered agreement of sale in favour of plaintiff on 17.01.2023 by receiving advance sale consideration of Rs.2,00,000/-. The defendants agreed to receive balance sale consideration of Rs.40,000/- at the time of execution of registered sale deed. Subsequently, the defendants failed to perform their part of contract, in spite of repeated requests followed by a legal notice dt:19.07.2023. In I.A.No.I, the plaintiff contends that, now the defendants are making attempt to alienate the suit property to 3rd parties. Hence this suit.

On perusal of the plaint cause title, it is apparent that, Defendant No.4 is minor and daughter of Defendant No.1. The plaintiff by filing I.A. No.II prays for appoint the defendant No.1 as guardian for the suit for minor defendant No.4.

The plaintiff has produced original sale agreement dated: 17.01.2023, R.T.C. extract of suit property, office

copy of legal notice dated: 19.07.2023 and reply notice dated: 24.07.2023. The sale agreement discloses that, defendants herein have executed an agreement of sale in favour of plaintiff agreeing to sell the suit property and received advance sale consideration of Rs.2,00,000/-. If they succeed in their attempt of making alienation of suit property, the plaintiff will be put to untold hardship and injury.

On perusal of the materials on record, at this stage the plaintiff has made out a prima-facie case in order to grant exparte order of temporary injunction in respect of suit property. If defendants succeed in their attempt of making alienation of suit property as alleged by the plaintiff in I.A.No.I, it would give room for multiplicity of proceedings and encourages the litigation. It would be just and proper to restrain the defendants from alienating the suit property, in order to protect and preserve the suit schedule property, so that if ultimately, the plaintiff who is the initiator of the suit, succeed in the suit, he would not be put to inseparable and uncompensated loss. The object is to keep the property in status quo so that, it would be available to the plaintiff, if he ultimately succeeds in the suit. On the other hand if the mandatory notice is issued on I.A.No.I, the object of granting the temporary injunction would be defeated by the delay. Hence

mandatory notice is dispensed. Hence, I proceed to pass the following:-

ORDER

I.A.No.II filed u/Order XXXII Rule 4 & 5 of CPC is hereby **allowed**.

Defendant No.1 is appointed as guardian for the suit for minor defendant No.4.

Defendants are hereby restrained by way of ex-parte temporary injunction from alienating the suit schedule property till next date of hearing.

The plaintiff shall comply the provisions of Order XXXIX Rule 3 (a) of CPC.

Issue suit summons, E/N on IA No.I and T.I warrant to Defendants, r/by

Sd/-

I Addl. Civil Judge & JMFC.,
Nanjanagud