

O.S No.195/2024

Plaintiff No.1 to 3 present.
The counsel for plaintiff present.
Heard on I.A No.II. For orders.

ORDER

Heard Advocate for Plaintiff on I.A.No.II.

Perused the plaint averments, documents and affidavit filed in support of I.A.No.II.

I.A.No.II is filed U/o.39 Rule 1 and 2 C.P.C claiming an order of ad-interim order of temporary injunction.

Plaintiff filed suit for permanent injunction against the defendants to restrain them from carrying construction activities over the eastern side of the suit property and in any manner causing interference with respect to peaceful possession and enjoyment of the suit property and for the relief of mandatory injunction directing the defendants to remove the illegal construction of stair case constructed in the eastern side of the suit property. It is alleged that plaintiff No.1 owned the suit property and she has executed register gift deed dated 02.09.2022 in favour of plaintiff No.2 and 3 with respect to suit property and accordingly they have mutated their names in the revenue records with respect said property as such plaintiff No.2 and 3 are the absolute owners of the suit property. Defendants are the neighboring land owner. Further it is alleged that the plaintiffs have left space in the eastern

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side of the suit property to use the toilet and bathroom, under this circumstances without the permission of the plaintiffs and without their consent the defendants are carrying out construction activities by encroaching the alleged eastern side of the suit property and they have trying to construct stair case over the same. The defendants are not having any right, title or interest over the suit property and they are trying to cause alleged interference. Therefore the plaintiff lodged the complaint against the defendants before concerned Police Station but same is went on vain. The plaintiff requested the defendants not to do such illegal act, but they did not heed the request of the plaintiffs and continued in their venture. The apprehension of the plaintiff is that, If the defendants are continued in their venture, then they will be put to hardship and jeopardized. Hence, this present I.A.

By considering the materials on record at this stage, I found an arguable case to pass an interim order on I.A.No.II.

In view of the urgency and apprehension shown by Plaintiff, I feel that an exparte interim order has to be passed on I.A.No.II by dispensing with the notice to the defendants. Hence, I proceed to pass the following interim order on I.A.No.II.

ORDER

Exparte Temporary Injunction is partly
granted as prayed in I.A.No.II.

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The defendants are hereby restrained from carrying construction activities by encroaching the eastern portion of the suit property or in any manner causing interference with respect to peaceful possession and enjoyment of the suit property by the plaintiff.

The order shall be in force till next date of hearing.

Issue Exparte order of temporary injunction if provision of order 39 Rule 3(a) & (b) of C.P.C is complied with.

After due compliance issue emergent notice on I.A.No.II, T.I Order and suit summons to the defendants.

For appearance of defendants by:
05.09.2024.

**Civil Judge & JMFC.,
T.Narasipura.**