

07.03.2023

ORDERS ON I.A.No.V

The plaintiff filed this application U/Sec 151 of CPC to permit to hear on I.A. Under Order 39 Rule 1 and 2 of CPC.

2. In the accompanying affidavit contended that the plaintiff filed this suit for permanent injunction against the defendant and now the case is set down for evidence at the time of filing of the suit the plaintiff filed an application U/O 39 rule 1 and 2 for the relief of interim order against the defendants to not to interfere with the possession, taking advantage of stage of evidence, now they are trying to cut and remove the standing trees in the schedule property. Hence it is necessary to hear on I.A.No.I in the interest of justice.

3. On the other hand advocate for defendant filed objections and contended that the application is not tenable. The contents of the affidavit are all false. At any point of time the defendants not to cut the standing trees in the suit schedule property. The plaintiff is absolutely stranger and she has not having any manner of right, title or interest over the suit schedule property. But on the other hand the defendants are absolute owners and lawful possession over the suit schedule property since 1965 from the date of purchase. The plaintiff kept quite all these years and after lapse of 9 years intentionally and deliberately with a dishonest intention to harass the defendants filed the false and frivolous application to

dragon the proceedings. Hence with these set of contentions prays to reject the application.

4. Heard the both sides.

5. After going through the available on record the plaintiff filed this suit for permanent injunction against the defendants in respect of suit schedule property. As per the records, the plaintiff has filed I.A.No.I U/O 39 rule 1 and 2 seeking interim reliefs and several times case was adjourned and no representation and on 02.08.2016 the case was posted for hear on I.A and kept in abeyance and issues were framed and case was proceeded. Though the I.A.No.1 filed by the plaintiff was pending for consideration and now the plaintiff filed this application to hear on I.A.No.I as the defendants trying to cut and removing the standing trees, as the predecessor in office passed the order that the I.A was kept in abeyance. So it means the final disposal has not been taken place. Hence it is necessary to disposal of I.A. which is filed U/O 39 rule 1 and 2 of CPC. Hence, considering the material and objection, this court is of the opinion that the I.A.No.I is pending for consideration and the same is to be hear at this stage. Hence in the interest of justice, it is necessary to allow the application. Hence this court is proceed to pass the following:

ORDER

The I.A.No.V filed by the plaintiff under section 151 of CPC is hereby allowed.

Call on for hearing on I.A.No.I which
is filed U/O 39 rule 1 and 2 of CPC.
13.03.2023

**Prl. Civil Judge and J.M.F.C.,
Kanakapura.**