

Case is advanced.

Plaintiff is present.

The defendants are called out, absent. The learned counsel for the defendants is also called out, absent. No representation by defendants' side till 05:00 p.m.

The learned counsel for the plaintiff who present before the court submits that the defendants' counsel intentionally avoiding from appearing before the court and he has also refused to receive the application on previous date of hearing.

Perused the order sheet. Sufficient opportunities are already given to the defendants to file objections to I.A.No.4. Hence no grounds are made out to grant further time to the defendants to file objections to I.A.No.4. By considering the conduct of the defendants and changed circumstances the objections to I.A.No.4 by the defendants is taken as not filed.

Heard the learned counsel for the plaintiff on I.A.No.4.

The learned counsel for the plaintiff has filed memo with photographs stating that despite temporary injunction, the construction work is going on in the suit schedule properties by the defendants as such it is

necessary to direct the S.H.O of Sathanur Police Station to protect the suit schedule properties in view of the temporary injunction granted on I.A.Nos.1 and 2 in favour of the plaintiff.

I have carefully gone through the photographs produced along with the memo by the plaintiff's counsel. On perusal of the said photographs it reveals that some construction work is going on at spot. By considering the facts and circumstances and documents available on record, this court has passed the temporary injunction order on I.A Nos. I and II against the defendants. It is the bounded duty of the defendants to obey the said order till the disposal of this suit, but as per plaintiff's contention the defendants have continued with the construction work at spot despite of temporary injunction order.

At this stage it is pertinent to note that, in a decision of the **Hon'ble High Court of Karnataka reported in ILR 1996 KAR 1271 in the case of Papanna Versus Nagachai** wherein it has been held that;

“when the court has prima facie considered the matter and has granted a temporary injunction in favour of the plaintiff after hearing the defendant, the court has to enforce the same and the contention of the defendant that he is in possession, cannot be accepted at this

stage... If the court had no power to implement its own orders, then there is no purpose in the courts passing orders in matters coming before them. The remedy under order 39 rule 2 (a) of CPC is not exhaustive and court can pass appropriate orders to see that its orders are enforced. In the necessary cases, even the police can be directed to enforce the order of the court”.

And in another judgment of **Hon’ble High Court of Karnataka reported in 2001 (1) Kar.L.J 23 in the case of M.S Mahadecaprasad and others versus Mahadevaiah and others** wherein it has been held that;

“when the court has prima facie considered the matter and has granted a temporary injunction in favour of the plaintiff after hearing the defendant, the court has to enforce the same and the contention of the defendant that he is in possession, cannot be accepted at this stage... If the court had no power to implement its own orders, then there is no purpose in the courts passing orders in matters coming

before them. The remedy under order 39 rule 2 (a) of CPC is not exhaustive and court can pass appropriate orders to see that its orders are enforced. In the necessary cases, even the police can be directed to enforce the order of the court”

The facts and circumstances of these judgments are applicable to the case on hand.

Further the counsel for the defendants has not opposed to the present application nor denied the said construction work at spot nor they preferred any appeal against the orders passed on I.A.Nos.1 and 2. Under these circumstance and in view of above relied judgments I am of the considered opinion that, the plaintiff has made out good grounds to allow the present application. Accordingly I proceed to pass the following;

ORDER

I.A.No.4 filed Under Section 151 of CPC by the plaintiff is hereby allowed.

The Sub-Inspector of Police/S.H.O of Sathanur Police Station is hereby directed to provide protection as prayed in the present application to the plaintiff in respect of suit schedule properties and shall stop the construction work going on in the suit schedule properties in view of the orders passed on I.A.Nos 1 and 2.

No order as to cost.

Posted for plaintiff's evidence.

Call on 10-01-2024.

Sd/-
C/c Prl., CJ & JMFC.,
Kanakapura.