

Heard the arguments of the learned counsel for plaintiff on IA.No.I. Perused affidavits annexed to IA.No.I.

Plaintiff has filed this suit against the defendant for the relief of permanent injunction in respect of suit schedule property. **Wherein the Plaintiff has also filed I.A. No. I under Order 39 Rule 1 and 2 of CPC requesting the court to pass an ad interim Ex-Parte T.I. order restraining the defendant** from making any kind of construction towards the eastern side of the suit schedule property. It is contended that the plaintiff is the absolute owner of the suit schedule property as she purchased the same under registered sale deed dated 12-03-2023. The defendant owns his land towards the eastern side of the suit schedule property. Now the defendant has started construction of wall towards the eastern side of the suit schedule property without any measurement. More over the defendant while constructing the said compound wall is trying to encroach the suit schedule property towards eastern side. Hence it is the apprehension of the plaintiff that if the defendant continued with the said construction work it causes irreparable loss and injustice to the plaintiff and it leads multiplicity of the proceedings. I have perused the documents produced by plaintiff. The plaintiff has produced RTC,

Photostat copy of sale deed and Photographs. The documents produced by plaintiff at this stage shows prima-facie case in favour of plaintiff. If prior notice under Order XXXIX Rule 3(a) C.P.C. is not dispensed, the very purpose of filing the suit will be defeated. As per the photographs it is clear that some construction work is taken placed at spot. As such the defendant must be restrained from making any further construction work towards the eastern side of the suit schedule property. Hence, it is just and necessary to dispense with the issuance of prior notice. Considering the nature of the suit, facts and circumstances of the case, by dispensing the issuance of prior notice, I proceed to pass the following:

### **ORDER**

Ex-parte Temporary Injunction order is granted against defendant.

The defendant is hereby temporarily restrained from making any kind of construction work towards the eastern side of the suit schedule property in any manner till next date of hearing.

Plaintiff shall comply the provisions under Order XXXIX Rule 3(a) of C.P.C.

Office is directed to issue certified copies after ensuring the compliance and

issue suit summons and notice of I.A No.I with Ex-Parte T.I order copy to the defendant, if sufficient PF is paid. If the plaintiff failed to pay process fee within time the Ex-Parte TI granted will automatically stands vacated.

The counsel for plaintiff is hereby directed to co-operate to dispose off I.A No. I within statutory period.

Call on 19.12.2024.

**Sd/-**  
**C/c Prl.,. Civil Judge and JMFC,**  
**Kanakapura**