

EXPARTE T.I. ORDER ON I.A.NO.I

Plaintiffs have filed I.A. No.I seeking ex-parte ad-interim temporary injunction order against the defendants, their representatives, agents or anybody acting on their behalf to restrain them temporarily from destroying the fence of the suit schedule property by trespassing into the same till pending disposal of the suit.

Heard on I.A.No.I. Perused the entire materials placed before the court.

It is stated by the plaintiff No.1 in the affidavit filed in support of I.A. No.I that, herself and plaintiff No.2 are in peaceful possession and enjoyment of the suit schedule property by virtue of regularization of their unauthorized cultivation by issuance of hakku patra in their favour by the Tahashildar Hosanagara on 30.03.2015 and they have grown areca nut, coconut, pepper plants in the suit schedule property and erected stone pole with wire fence around the suit schedule property and enjoying the same.

This being the position, without there being any right, title, interest or possession over the suit property, the defendants have attempted to disturb the peaceful possession and enjoyment of the suit schedule property and on 12th of October 2020, the defendants have tried to destroy the fence by trespassing into the suit schedule property. But, the said act was temporarily restrained by the plaintiffs. The defendants are politically influenced persons and plaintiffs are not in a position to resist the acts of the defendants. To restrain the defendants, the present interim application is filed by the plaintiffs along with the suit.

In support, the plaintiff has produced documents such as certified copy of saguvali chit No.602/2014-15 in

Form No – 7, RTC of Sy. No.65 of the year 2020-21, mutation register bearing MR.No.H7, Form No-53, copy of Bhagar hukum sketch of Sy. No.65, tax paid receipt.

By going through the pleadings and documents, the apprehension of the plaintiffs with regard to alleged destruction of fence in the suit schedule property by the plaintiffs cannot be disbelieved at this juncture. Therefore, the Court opines that, at this stage, if ex-parte temporary injunction is not granted, the same would definitely affects the plaintiffs adversely in one or other way and further, if it taken into consideration of the facts of the case, the object of granting the injunction would be defeated by delay if Court issue notices on I.A. No.I to defendants by not opting for granting the ex-parte temporary injunction in favor of plaintiffs.

Therefore, by considering all these aspects, the issuance of mandatory notice to the defendants before granting injunction as contemplated under Order XXXIX Rule 3 of CPC is hereby dispensed with in view of urgency involved in the suit.

Therefore, ad-interim ex-parte injunction is hereby granted in favour of the plaintiffs and consequently, the defendants or anybody acting on their behalf are hereby restrained temporarily from destroying the fence of the suit schedule property by trespassing into the same in any manner till next date of hearing if and only plaintiffs shall comply Order XXXIX Rule 3(a) & (b) of CPC.

Office is directed to issue certified copy of this order if claimed by the plaintiffs only after compliance of the provisions of Order XXXIX Rule 3(a) &(b) of CPC.

Issue suit summons, notice on I.A. No.I and T.I. warrant to the defendants if sufficient copies and P.F. is paid.

Returnable by 10.11.2020.

**C/c Prl. C.J. and JMFC,
Hosanagara**