

ORDER ON I.A.No.I

The plaintiff has filed I.A. No.1 under sec.80(2) of CPC., seeking to dispense the statutory notice.

2. The plaintiff has contended that she has filed the suit for declaration and permanent injunction in respect of suit property, since the matter is urgent in nature, she prays to permit her to institute the suit by dispensing the statutory notice.

3. Though defendants have appeared before the court through their counsel, but they have failed to file objection to this I.A.No.I.

4. Heard, perused the pleadings and documents and found that plaintiff has filed the suit for declaration and permanent injunction in respect of land bearing Sy.No.141/2. She has also filed I.A.No.II seeking an order of temporary injunction against the defendants. Considering the nature of the suit and the urgency of the matter, I feel it just and proper to dispense the statutory notice and permit the plaintiff to proceed the case against the defendants. Hence, I proceed to pass the following;

: ORDER :

I.A.No.I filed by the plaintiff under Sec.80(2) of CPC., is hereby allowed.

Plaintiff is permitted to file the suit by dispensing his statutory notice under Sec.80 of CPC.

**Prl. Senior Civil Judge & JMFC.,
Madhugiri.**

ORDER ON I.A. No.II

The plaintiff has filed I.A. No.II under Order 39 Rule 1 and 2 of CPC., seeking an order of temporary injunction restraining the defendants, their agents, servants or anybody claiming under them from dispossessing the plaintiff from the suit property in any mode or manner till the disposal of the suit.

2. The plaintiff has sworn to an affidavit and contended that she has filed the suit for declaration and permanent injunction. She is the absolute owner in possession of suit property. The defendants are strangers to the suit property and they have no manner of right title, interest much less possession over the suit property. In spite of it, defendants are trying to dispossess the plaintiff from the suit property and also interfering with her peaceful possession and enjoyment over the same. The illegal acts of the defendants cannot be prevented without granting temporary injunction. If temporary injunction is refused, plaintiff will be put to irreparable loss and damage and injury which cannot be compensated by

any means. Plaintiff has made out prima facie case and balance of convenience lies in favour. Hence prays to allow the I.A.

3. In pursuance of notice on I.A. and suit summons defendants have appeared through learned AGP, but failed to file written statement and objection, hence the objection on I.A. No.II is taken as Nil.

4. Heard perused records. on its perusal it goes to show that plaintiff has filed the suit for declaration and permanent injunction with respect to 2.25 guntas in Sy. No.141/2. It is the case of the plaintiff that the land bearing Sy.No.141/A totally measuring 6 acres originally belonged to plaintiff and she was the absolute owner in possession of the same. Out of the said 6 acres of land, defendants have acquired the land to an extent of 3 acres for the purpose of tank vide Order No.LAQ.W.S.R 1/2009-10. Thereafter the said Sy.No.141/A has been phoded and numbered as 141/2 to an extent of 3 acres is mutated in the name of defendants and the land to an extent of 2.25 guntas is mutated in the name of plaintiff. In Sy.No.141/2 the plaintiff has raised crops in the suit schedule property by spending huge amount and hard labour, but the defendants after acquiring adjacent lands in the same survey number are trying to interfere with the peaceful possession and also denying plaintiffs right over the suit property. Hence, this I.A.

5. In support of the contention of plaintiff she has produced RTC of Sy.No.141/2 which goes to show that out of 5.38 guntas 0.13 guntas of land is karab and remaining extent of 5.25 guntas, 3 acres stands in the name of government lake and the same is acquired through acquisition and the same came to be mutated through M.R.18/98-99. The remaining extent of 2.25 guntas in the suit survey number stands in the name of plaintiff and the same came to be mutated in her name through M.R.34/69-70. The plaintiff has also produced hand written RTC of old Sy.No.141/A for the year 1976-1981, 1981-1983, 1986-1996 pertaining to suit property which goes to show that earlier entire extent of 6 acres stood in the name of plaintiff and thereafter only 0.03 guntas was acquired by the defendants for the formation of lake and the suit schedule property is retained by the plaintiff, hence as on the filing of the suit the revenue documents pertaining to the suit property stands in the name of plaintiff and defendants have acquired the adjacent land of 3 acres and not the suit property. Though sufficient opportunity was given to the defendants they have neither filed written statement nor objection to this I.A. hence, it appears that defendants have admitted plaintiff's peaceful possession over the suit property and alleged interference stated in the plaint. The plaintiff has made out prima facie case for granting an order of temporary injunction. If the temporary injunction is

granted, balance of convenience lies in her favour and at the same time if the temporary injunction is rejected irreparable loss and inconvenience caused to the plaintiff. Hence, plaintiff is entitled for an order of temporary injunction. Hence, I proceed to pass the following;

: ORDER :

I.A.No.II filed by the plaintiff under order 39 Rule 1 and 2 of CPC., is hereby allowed.

The defendants, their agents, servants or anybody claiming under them are hereby restrained by an order of temporary injunction from dispossessing the plaintiff from the suit property in any mode or manner till the disposal of the suit.

No order as to cost.

Posted for plaintiff's evidence
-20.06.2023.

**Sd/-
Prl. Senior Civil Judge & JMFC.,
Madhugiri.**