

ORDERS ON I.A.No.I

Plaintiff has filed I.A.No.I under Order XXXIX Rule 1 and 2 read with Section 151 of C.P.C. seeking ad-interim ex-parte temporary injunction restraining the defendant and his men from forcibly evicting the plaintiff from the suit property.

I have perused the plaint averments, documents and affidavit averments. Admittedly, defendant is the owner of the suit property. RTCs produced by the plaintiff reflects the same. At this juncture, it is necessary to refer to the decision rendered by the Hon'ble High Court of Karnataka in ***Mallayya Murigeyya Naduvinamath v. Puttappa Shivappa Mosali*** reported in ***AIR 1976 Kar 192*** wherein it was observed that "It is well settled that no person in possession of land can sue for injunction against

a true owner unless he is able to maintain that either under an agreement or under a statute he is entitled to the said relief even as against him. If he is not able to rely on any such agreement or statute his possession would be wrongful. No Court will by its order help a party who is found to be in wrongful possession as against the lawful owner." Thus before passing ad-interim ex parte injunction it is just and necessary to hear the defendant as well. Therefore, issue emergent notice on IA No.1 and suit summons to the defendant. R/by 26.04.2024.

Addl.Civil Judge&JMFC, Karwar.