

ORDERS ON I.A. II

The learned advocate for the plaintiff has filed this application U/o.39 Rule 1 and 2 R/w. Section 151 of C.P.C., seeking to restrain the defendant from dispossessing the plaintiff from the suit schedule property till disposal of the suit.

2. In the affidavit accompanying the application, it is stated that the suit is filed seeking for the relief of Permanent Injunction against the defendant restraining the defendant from dispossessing the plaintiff from the suit

schedule property without following due process of law. It is further stated that the plaintiff is in possession of the suit schedule property since 20 years on the basis of lease and lease has not yet expired and the defendant is threatening to dispossess the plaintiff from the suit schedule property without following due process of law and hence, he seeks for allowing of the application.

3. It is to be noted here that during the pendency of the suit, ex-parte temporary injunction was granted to the plaintiff on 5.1.2019, but the plaintiff has filed an application Under Order 39 Rule 2A of C.P.C., claiming that he has been dispossessed and the said dispossession is in violation of the temporary injunction order. Separate Civil Miscellaneous is registered with regard to the said I.A. However, the contention of the plaintiff that he has been dispossessed itself goes to show that the I.A.No.II filed Under Order XXXIX Rule 1 and 2 R/w. Section 151 of C.P.C., has become infructuous and hence, I.A No.II is hereby disposed off as infructuous.

Addl. Civil Judge, Karwar.

ORDERS ON I.A. IV

The learned advocate for the plaintiff has filed this application Under order VI Rule 17 R/w. Section 151 of C.P.C., seeking for amendment of the plaint.

2. In the affidavit accompanying the application, it is stated that the plaintiff has filed this suit seeking to restrain the defendant from dispossessing the plaintiff from the suit schedule property without following due process of law. During the pendency of the suit, the plaintiff has been dispossessed from the suit schedule property on 7.1.2019 despite of intimating the officials of defendant council and therefore, the application seeking amendment of the prayer and paragraph is sought by the plaintiff and hence, he seeks for allowing of the application.

3. The learned advocate for the defendant has filed his objections stating that I.A. filed is against contrary to law and the subsequent plaintiff cannot be allowed and hence, he seeks for dismissal of the application.

4. Heard the learned advocate for the plaintiff and learned advocate for the defendant.

5. The following points arise for my consideration:

1. Whether I.A.IV filed by the learned advocate for the plaintiff Under Order VI Rule 17 R/w. Section 151 of C.P.C., deserves to be allowed?

2. What order ?

6. My answer to the above points are as under:

Point No.1 : In the ***affirmative***.

Point No.2 : As per final order, for the following:

:REASONS:

7. **Point No.1:-** It is to be noted here that the plaintiff had filed the suit seeking for restraining the defendant from dispossessing the plaintiff from the suit schedule property and it is the contention of the plaintiff that he has been dispossessed illegally by the defendant without following due process of law. Therefore, the plaintiff is seeking for

amendment of the prayer and adding of paragraph with regard to averments of dispossession. It is settled principle of law that the events which have taken place after filing of the suit can also be included in the pending proceedings, if there is direct nexus between the pleadings in the suit and the amendment sought for. In this case, there is a direct nexus between the pleadings in the suit and the amendment sought for and in that view of the matter, I am of the opinion that the application filed by the learned advocate for the plaintiff deserves to be allowed. Hence, I answer ***point No.1 in the affirmative in favour of the plaintiff.***

8. **Point No.2:-** Therefore, I proceed to pass the following:

ORDER

I.A.IV filed Under Order VI Rule 17 R/w. Section 151 of C.P.C., by the learned advocate for the plaintiff is hereby allowed.

The learned advocate for the plaintiff is hereby directed to amend the plaint and file amended plaint on next date of hearing.

Addl. Civil Judge, Karwar.