

ORDERS

The Plaintiffs filed suit for declaration of easementary right and permanent injunction against the Defendants.

2. The Plaintiffs filed an application under 39 Rule 1 and 2 of C.P.C praying before this court to pass an order of temporary injunction against the Defendants from blocking their way of 13x46 feet road situated on the Southern side of Kanchikeri Road which is situated in 'B' Schedule property of this suit.

3. Plaintiffs submitted that, the Defendants No.1 to 8 are the owners of suit 'B' schedule property. On

2/12/2021, the Defendants No.1 to 8 sold 00-4-00 Guntas of land to the Defendant No.9. In view of said sale deed the Plaintiffs submitted that the usage of road to reach the Plaintiffs house will be blocked. However, the Defendants No.1 to 8 are not in possession of suit 'B' schedule property and also a Public well situated in suit 'B' schedule property. The public of entire village are using said well for their basic necessities. The Plaintiffs submitted that in case if the Defendants blocks the said way they will suffer with irreparable loss. Hence Plaintiffs prayed before this court to pass an order of ad-interim Exparte temporary injunction against the Defendants from blocking 13x46 feet road to reach Plaintiffs property.

4. In Support of Plaintiffs argument Plaintiffs relied upon RTC of SY No. 309 of Belake village, order of land tribunal, mutation extract, hand written RTC of Sy. No.309, RTC of Sy No.354 & Hissa 21, mutation extract of Sy.No.354/&/21, copy of sale deed Dated 2-12-2021, copy of general power of attorney, 6 photographs, a CD, electricity bill, residence Survey sketch, hand made sketch and tax receipts.

5. On perusal of materials placed on record, it is quiet evident that the Plaintiffs are the owners of the suit 'A' schedule property. Prior to 2-12-2021 the Defendants No. 1 to 8 were the owners of the suit schedule property. The Defendant No.9 has been purchased 00-04-00 guntas of land in suit 'B' schedule property. However the hand sketch and the sketch obtained by the Plaintiffs from Survey department categorically establishes the possession of the Plaintiffs with respect to 'A' schedule property. In such circumstances, it is quiet evident that there is a public well situated in 'B' Schedule property and it is also situated in 00-04-00 guntas of land which has been alienated in the interest of Defendant No.9.

6. In such circumstances, there is a mere chance of blockage of 13x46 feet road towards southern side of the Kanchikeri Road which is existing in 'B' schedule property. In case if the said road is blocked then there will be no access nor there will be no connection between Plaintiffs land and Kanchikeri Road. In such circumstances, the Plaintiffs had made out a case that they may put irreparable loss, if the road is blocked. In such circumstances, I proceed to pass following order.

ORDER

The Defendants are here by restrained by an order of Ad-interim Exparte temporary injunction from obstructing the Plaintiffs right to way of 13x46 feet road on the Southern side of the Kanchikeri Road existing in suit 'B' schedule property to reach 'A' schedule property and also from closing, ancient mud road and public well situated on the western side of 13x46 feet road.

The Plaintiffs is here by by directed to comply with order XXXIX of C.P.C.

Office is here by directed to issue notice on I.A.No.1 and 2, copy of this order and suit summons to all the Defendants.

Returnable by 22/02/2022.

Sd/-

**Prl. Civil Judge and
J.M.F.C. Bhatkal**