

ORDER

I.A.No.II is filed along with affidavit and documents. On perusal of the check slip there is no caveat filed in this case. The suit is filed against the defendant for the relief of permanent injunction in respect to suit schedule property.

IA. No.II is filed U/o.XXXIX Rules 1 & 2 R/w Sec. 151 of CPC., for the relief of T.I. against the defendant, restraining the defendants, its agents, servants or anybody claiming through it from interfering with or dispossessing the plaintiff from the suit schedule property, in any manner whatsoever, including by constructing a compound wall or carrying out any construction activity till the disposal of suit.

This is a suit filed by the plaintiff against the defendant who is none other than the Panchayat Development Officer (PDO) Shirali Grama Panchayat, Bhatkal Taluk. **The Hon'ble High Court of Karnataka in R.S.A. No.2357/2007 Between Ningappa V/s The Grama Panchayat Committee** it was held as hereunder:-

“14. Sub Section 4 of Section 289 states that the necessity of issuing a notice to the Gram Panchayat would not arise when the suit is instituted under Section 38 of the Specific Relief Act 1963. Section 38 of the said act

deals with perpetual injunction. Sub Section 3 of Section 38 speaks of invasion of the plaintiff right to the enjoyment of the property, in other words, where injunction is sought against the defendant where there is a threat to the plaintiff's right to enjoy his property. The Karnataka Panchayat Raj Act, 1993 is a special enactment which inter alia, deals with the manner in which proceedings could be instituted against the Panchayat as opposed to Section 80 of C.P.C. which is a general provision. Therefore, the special provision Section 289 of the special enactment namely Karnataka Panchayat Raj Act would prevail over the C.P.C. in the matter of institution of the suit against the Panchayats. Having regard to sub Section 4 of Section 289 the necessity of issuing a notice to the Gram Panchayat would not arise, as the present suit is one filed under Section 38 of the Specific Relief Act, 1963 therefore, the first appellate Court was not right in holding that the suit filed by the appellant without invoking Section 80 of the C.P.C. is not maintainable.”

From this it is evident that issuance of statutory notice to the defendant as contemplated U/Sec.80 of

CPC is not called for. Since Section 80 of CPC itself is not applicable to the case on hand, the bar of granting ex-parte relief U/Sec.80(2) of CPC is also not applicable to the case on hand.

Heard, learned R.R.S., Advocate for plaintiff on I.A.No.II under Order XXXIX Rule 1 and 2 of CPC,

On perusal of the plaint averments, I.A. Affidavit and other documents and the decision produced by the plaintiff. By considering the materials on record and in view of the urgency and apprehension shown by the plaintiff, at this stage, this court found that it is an arguable case for having to pass an ad-interim temporary injunction order on I.A.No.II and in order to avoid multiplicity of proceedings, this court feels that an ex-parte ad-interim order has to be passed on same, hence, I proceed to pass the following:-

ORDER

Ad-interim temporary injunction is granted as here below.

Accordingly herein after, the defendant, his agents, servants or anybody claiming through him are restrained from dispossessing the plaintiff from the suit schedule property till the next hearing date.

Therefore the plaintiff is directed to comply the order XXXIX Rule 3 of CPC on or before 19-12-2025 after due compliance, issue emergent notice to defendant on I.A. No.II and issue suit summons to defendant, if necessary PF paid.

For appearance of defendant by 05-01-2026.

Sd/-
Addl.Civil Judge and
J.M.F.C., Bhatkal