

ORDERS ON I.A. NO.II

Plaintiff has filed IA No. II U/O 39 Rule 1 and 2 of Code of Civil Procedure, 1908 and sought for grant ad-interim Ex-parte Temporary Injunction against the defendant, restraining them from interfering with the peaceful possession and enjoyment on the plaintiff over the suit schedule property and to restrain them from cutting the crops over the suit schedule property.

Heard, the counsel's arguments on IA No. II and perused the plaint and I.A. No. II and reasons stated in the annexed affidavit.

The application is supported with the affidavit of the plaintiff duly sworn and in support of the suit the plaintiff has also produced certain documents.

It is averred in the affidavit that the plaintiff has become absolute owner of the suit schedule property in view of the Varasa. Such being the case, the defendant also possess right over the suit survey number. However the defendant behind the back of the plaintiff has got the hadbusth and has unlawfully shown the property belonging to the plaintiff as the property of defendant. Now the defendant is trying to cut the crops growing by the plaintiff. Hence this application.

Heard, the counsel's arguments on IA No. II and Perused the plaint averments as well as sworn affidavit of the plaintiff filed in support of I.A.No.II and also the documents produced by the plaintiff.

The suit is for permanent injunction. The plaintiff has established a prima facie case showing that, he is in peaceful possession and enjoyment of the suit schedule property. Hence, it becomes necessary to restrain the defendants from interfering with the peaceful possession and enjoyment over the suit schedule property, to safeguard the subject matter of the suit. In the event, if the defendants are not restrained, the very purpose of suit would be defeated. If the T.I. is not granted, it will be difficult for the plaintiff to restrain the defendants. The main object of granting T.I is to preserve the subject matter intact till the conclusion of the trial. Hence, I am of the opinion that at this stage plaintiff has made out a prima-facie case to grant an Ex-parte Temporary Injunction. Therefore, I proceed to pass the following:

ORDER

Issue ad-interim Ex-parte order of Temporary Injunction against the defendant as prayed in I.A.No.II.

a. The defendant, is hereby restrained from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property and defendant is restrained from cutting the crops over the suit schedule property, till filing of the written statement and objection to I.A. No II.

b. The plaintiff shall comply with the mandate as provided U/o.XXXIX rule 3(a) of CPC.

c. Issue certified copy of the order of T.I. after the compliance of the provisions U/o.XXXIX rule 3 (a) CPC by plaintiff.

It is made clear that, in case the plaintiff does not comply with the provisions of Order XXXIX Rule 3(a) of CPC, this order shall stand vacated automatically.

Issue summons to defendant and E/Notice on I.A.No.II to defendant if sufficient PF is paid.

Call on: 19-02-2025

Civil Judge & JMFC., Siddapur.