

ORDERS ON I.A. NO.I

The Plaintiff has filed the present suit against the defendants, seeking the relief of permanent injunction restraining the defendants from interfering with the beneficial enjoyment of the betta privileges given to the plaintiff over the suit betta lands. The plaintiff has filed I.A. No. I, U/O XXXIX Rule 1 and 2 of Code of Civil Procedure, 1908 seeking the grant of Ad-interim exparte Temporary Injunction against defendants restraining them from interfering with the beneficial enjoyment of the betta privileges given to the plaintiff over the suit betta lands.

The application is supported with the affidavit of the plaintiff. It is averred in the affidavit that the suit schedule properties belong to the Government i.e Sy No. 73*B7 and Sy No. 59, which are betta lands and the privileges to use these lands were given to the owners of the Sy No. 13, 15, 17, 18, 22/1-4, 41, 43/2, 53, (these Sy Nos are with respect to betta sy. No. 73*B-7) and Sy No. 13, 15, 17, 18, 22/1-41, 43/2, 53, 14, 18/2, 20, 22/2-3, 40, 43/2, 19, 22/3, 42, 43/3 (these Sy Nos are with respect to betta Sy. No. 59). Accordingly, the plaintiff is bagayath land holder of Sy No. 18/1, 15, 43, 22/4, 22/5, 22/6, 43/3, hence, he is an entitled to use the privileges over the suit betta lands. Such being the case, the defendants who have no manner of privileges attached to their sy. Numbers are trying to illegally interfere with the enjoyment of the plaintiff over the suit betta lands. Hence, the plaintiff has filed the present I.A.No.I seeking the grant of an ad-interim Ex-parte temporary injunction against the defendants to restrain them from interfering with the beneficial enjoyment the privileges of the plaintiff over the suit schedule betta properties.

Heard, the counsel's arguments on IA No. I and Perused the plaint averments as well as sworn affidavit of

the plaintiff filed in support of I.A.No.I and also the documents produced by the plaintiff. The plaintiff has produced the RTC with respect to the suit schedule properties and RTC with respect to the properties belonging to the bhagayath share of the plaintiff i.e Sy. no. 18/1, 15, 43, 22/4, 22/5, 22/6, 43/3 and several others RTC's.

The suit is for perpetual prohibitory injunction. The plaintiff has produced the RTC with respect to the suit schedule properties wherein in column No. 11 of both the RTC's belonging survey No. 73*B-7, and 59, it is entered that the suit schedule properties are left to the use of the Sy No. 13, 15, 17, 18, 22/1-4, 41, 43/2, 53, (these Sy, numbers are with respect to Sy. No. 73*B-7) and Sy. no. 13, 15, 17, 18, 22/1-41, 43/2, 53, 14, 18/2, 20, 22/2-3, 40, 43/2, 19, 22/3, 42, 43/3 (these Sy, numbers are with respect to Sy. No. 59). Further the plaintiff has produced the RTC's of several survey numbers belonging to the bagayath share of the plaintiff wherein in column No. 9 of the said RTC's the name of the plaintiff is depicted. Hence, it shows that the Sy No. 18/1, 15, 43, 22/4, 22/5, 22/6, 43/3 belongs to the plaintiff and hence, as per the entry made in column No. 11 of both the RTC's belonging survey No.73*B-7 and 59, it is clear that, the plaintiff has right to use the suit schedule properties. Further, the plaintiff has produced the RTC's of other properties mentioned in Sy. no.73*B-7 and 59, wherein in these RTC's the name of the defendants are not depicted.

Therefore, there appears to be a prima facie case found from the averments and the documents produced by the plaintiff. In the event, if the defendants are not restrained from interfering with the peaceful possession of the suit schedule properties, the very purpose of suit would be defeated. 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 it appears that the plaintiff has made out a prima-facie case to grant an Exparte Temporary Injunction. Therefore, I proceed to pass the following:

ORDER

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

- a.** The defendants are hereby temporarily restrained from interfering with the plaintiff's peaceful possession and enjoyment of the schedule betta properties in any manner, till filing of the written statement and objection to I.A. No I.
- b.** The plaintiff shall comply with the mandate as provided U/o.XXXIX rule 3(a) of CPC.
- c.** Issue certified copy order of T.I. after the compliance U/o.XXXIX rule 3(a) CPC by plaintiff.

It is made clear that, in case of plaintiff does not comply the provisions of U/Orders 39 Rule 3(a) of CPC in accordance with law this order shall automatically stand vacated.

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

Call on: 03-04-2024.

Civil Judge and JMFC

Siddapur

