

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 him from constructing any new building over suit Sy. No. 244 of Hosur village, Siddapur taluk.

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 and defendant are joint owner of sy. no. 244 accordingly there was a partition effected amongst them by dividing the same into 1/4th share each. Such being the case, the defendant is now trying to construct a building by encroaching the plaintiff portion. 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 joint possession and enjoyment of the suit schedule property. Hence, it becomes necessary to restrain the defendant from constructing a new building over the suit schedule property, to safeguard the subject matter of the suit. In the event, if the defendant is 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 putting up new constructing over suit Sy. No. 244 of Hosur village, Siddapur taluk, 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 defendants and E/Notice on I.A.No.II to defendant if sufficient PF is paid.

Call on: 18-12-2024.

**Civil Judge & JMFC.,
Siddapur.**