

ORDERS ON I.A. NO.II

The Plaintiff has filed this suit against the defendant seeking the relief of permanent injunction restraining the defendant from selling the suit schedule car otherwise than in due process of law.

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

It is the case of the plaintiff that, he had purchase the suit schedule car by receiving a loan of sum of Rs. 2,47,050/- from the defendant bank on 19-05-2018 to be repaid within 60 equated installments. Further that, the plaintiff has made payment of several installments but was due for 31 installments. Such being the case, the defendant bank has seized his car and threatening to sell the suit schedule car otherwise in due process of law. Hence, this suit.

Thus , the plaintiff has filed the present application under order XXXIX rule 1 and 2 of CPC seeking to grant an Ex-parte temporary injunction to restrain the defendant from selling the suit schedule car otherwise than in due process of law.

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 perpetual prohibitory injunction. The documents produced by the plaintiff prima-facie shows that, the plaintiff is the absolute owner of the suit schedule car. In the event, if the defendant is not restrained from selling the suit schedule car otherwise than in due process of law, the very purpose of suit would be defeated. Further, the plaintiff submits that he is ready to repay the entire loan amount. Thus , if the T.I. is not granted, it will be difficult for the plaintiff to restrain the defendant. 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, restraining the defendant, from selling the suit schedule car otherwise than in due process of law, till next date of hearing.

It is made clear that, the plaintiff shall not take undue advantage of this order and delay the repayment of the loan amount to the defendant bank.

If the plaintiff fails to repay the loan amount within reasonable time this court shall vacate the Ex parte order granted.

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: 16-07-2024.

Civil Judge and JMFC

Siddapur