

ORDERS ON I.A. NO.II

The plaintiffs have filed I.A. No. II, U/O 39 Rule 1 and 2 of Code of Civil Procedure, 1908 seeking the grant of ad-interim Ex-parte Temporary Injunction against defendants restraining them from putting up any

construction over the suit betta land, restraining them from interfering with the peaceful possession and enjoyment over the suit betta land and restraining the defendants from closing the road (12 feet in width) running from Sirsi- Siddapur main road to the house of the plaintiffs.

The application is supported with the affidavit of the plaintiffs. It is averred in the affidavit that, the suit schedule properties belong to the Government, which are betta lands and the privileges to use these lands were given to the owners of several survey numbers and the plaintiffs are one of the owner of survey number to which the suit schedule betta privileges has been granted. Further the defendants do not possess any properties for which the privileges of the suit betta land is given. Such being the case, the defendants are interfering with the possession and enjoyment of the plaintiffs over the suit betta land by constructing a shed and blocking the 12 feet width road running from Sirsi-Siddapur highway to the house of the plaintiffs. 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 plaintiffs.

The suit is for perpetual prohibitory injunction. The plaintiffs have produced the RTC's with respect to the suit schedule properties and also the properties belonging to the plaintiffs it can prima-facie be seen that, the privilege of the suit schedule properties is given to the properties belonging to the plaintiffs. Such being the case if the defendants put up construction over the suit schedule property it will create undue hardship who would possess privilege over the suit betta land.

Therefore, there appears to be a prima-facie case found from the averments and the documents produced by the plaintiffs. In the event, if the defendants are not restrained from interfering with the common enjoyment 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 it

appears that the plaintiffs have made out a prima-facie case to grant an Ex-parte Temporary Injunction. Therefore, I proceed to pass the following:

ORDER

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

- a.** The defendants are hereby temporarily restrained from interfering with the possession and enjoyment of the plaintiffs over the suit schedule betta land;
- b.** The defendants are restrain from putting up any construction over the suit betta land;
- c.** The defendants are restrain from blocking the road which is 12 feet in width running from Sirsi - Siddapur highway to the house of the plaintiffs, 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 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.II to defendants if sufficient PF is paid.

Call on: 20-01-2025.

Civil Judge and JMFC

Siddapur

