

Heard on I.A.No.I, wherein at this stage of discussion, the plaintiff prays to issue ex parte order against the defendants so as not to alienate the suit schedule property nor create any charge over that property. Perused the records of the

case, wherein it is submitted that plaintiff and husband of 1st defendant and father of other defendants have entered into an agreement of sale in respect of suit schedule property and in order to substantiate the same original agreement of sale is produced herewith. In pursuance of the same an advance money of Rs.23,50,000/- is being received by the husband of 1st defendant during his life time. It is further submitted that, plaintiff was always ready and willing to perform his part of contract. But, the husband of 1st defendant for the one reason or the other went on postponing the execution of sale deed in favour of plaintiff. Unfortunately, the husband of 1st defendant expired on 04.02.2024 and later on, the plaintiff requested the LRs of Late Srinivas Poojary to get execute the sale deed in favour of plaintiff by receiving the balance sale consideration amount. But, these defendants did not listen the words of plaintiff and went on postponing the execution of sale deed in favour of plaintiff. Aggrieved by the act of the defendants, the plaintiff got issued legal notice and defendants have given an evasive reply denying the entire contents of the notice issued by the plaintiff. Now, the plaintiff has paid the advance amount and he is under the apprehension that, defendants might sell the property to other

persons which would cause loss to the plaintiff. So therefore, the plaintiff submits that at this stage ex parte order of temporary injunction need to be issued to restrain the defendants from selling the property to other persons. At this stage of discussion, it is pertinent to mention here that the plaintiff has furnished the copy of sale deed standing in the name of Late Srinivas Poojary and further photostat copy of registered agreement for sale and receipts to show that he has paid the advance amount to the extent of Rs.23,50,000/-. So therefore, on perusal of records of the case, the contents of plaint and affidavit annexed to the application clearly at this stage goes to show that, the plaintiff has prima facie case in his favour. It is also pertinent to mention here that, in the suits relating to specific performance of contract pertaining to the execution of agreement of sale, the conduct of the parties is very important to taken into consideration while passing any such orders in this type of suit. The evasive reply without any facts which were given in the form of reply to the notice given by the plaintiff to execute the sale deed by receiving balance sale consideration amount clearly at this stage goes to show that, inspite of plaintiff's willingness and readiness the defendants are reluctant and are not co-operating

in execution of sale deed in favour of the plaintiff. So therefore, in the interest of justice, at this stage the plaintiff has made out sufficient grounds and deserves ex parte order in his favour. So therefore, this court proceed to pass the following :

ORDER

Ex parte order stands issued to the defendants or anybody claiming through them are hereby directed not to alienate or create charge over the suit schedule property and this order would be in force until next date of hearing.

Plaintiff is strictly directed to comply order XXXIX Rule 3(a)(b) of C.P.C. by supplying sufficient copies of plaint and interim applications.

Office is strictly directed to issue copy of this order only if plaintiff complies Order XXXIX Rule 3(a)(b) of C.P.C.

Issue suit summons and emergent notice on I.A.No.I filed under Order XXXIX Rule 1 and 2 of C.P.C. by 26.09.2024.

O.S.No.147/2024

Adl. Senior Civil Judge & A.C.J.M.
Udupi.