

Orders on IA No. 5 filed under Sec.151 of CPC.,

The plaintiffs have filed this application under section 151 of CPC seeking police protection for implementing the order passed on IA No. 2 dated 01-09-2023.

2. It is stated in the accompanying affidavit that, the plaintiffs have filed this suit against the defendants for the relief of permanent injunction. Along with the plaint they have filed interim application under order 39 Rule 1 and 2 of CPC. The defendants have filed objection to the application. After hearing both side the Court passed an order dated 01-09-2023, wherein the defendants restrained from interfering with the administration of the temple or from damaging any building compound or materials situated in suit property. Against the said order the defendants filed Miscellaneous appeal in 20/2023 and the said appeal was dismissed on 22-01-2024. The defendants are interfering with the administration and pooja of the temple with out obeying the order of the Court. In this regard they have filed complaint before the police on 12-02-2024, but the police have not taken any action against the defendants and issued endorsement to resolve the problem before the Court. Hence, prays to allow the application .

3. On the other hand the defendants have filed objection stating that the defendants or their people have not disobeying the order of the court. The said defendants are doing is offering their prayers to the deity in the 'A' schedule property. The order on IA No. II, although confirmed by the Senior Civil Judge, m Kundapura in MA. No. 20/2023, has not reached finality as the defendant No. 3 has challenged the same before the Hon'ble High Court in WP No. 8609/2024 in which notice has already been issued to the Respondents and which is now posted for orders. The defendants have a very good chance of success before the Hon'ble High Court. The plaintiffs are now trying to supersede the High Court by filing false and frivolous application before this Court. The defendants have not violated the order of this Court. The repair of the temple in the suit schedule property are already completed and no work is pending. As such the question of damaging the property does not arise at all. The repair work has been undertaken by the public at large and the defendants have not involved themselves in the same after passing of the Order on IA No. II. The plaintiffs are trying to blame the defendants for the work being done by third parties over which the defendants are having no control over at all. The actual aim of the plaintiff is to harass the defendants. Any order of police protection will effectively prevent the defendants from offering

prayers to the deity in the suit schedule property. The granting of police aid would go beyond the order passed on IA No. II. Hence prays to dismiss the application.

4. Heard both side and perused the materials on record.

5. The points that would arise for my consideration are as under:

//POINTS//

1) Whether the plaintiffs have made out the grounds to allow the application ?

2) What order?

6. My answer to the above point is in the **AFFIRMATIVE** for the following:

// REASONS //

7. The plaintiffs have filed this suit against the defendants for the relief of permanent injunction by plaintiffs, from interfering with either administration of temple or management of its property by plaintiffs. The plaintiff submitted that the defendants are interfering with the administration and the pooja of the temple without obeying the order of the Court. The defendants denied the same and contended that they have not violated the order of the Court. The order in MA 20/2023 is not reached finality, as the defendant No. 3 has challenged before the Hon'ble High Court of Karnataka, in

WP No. 8609/2024, in which notice has been issued to the respondent and which is now posted for orders.

8. On perusal of the materials on record it appears that the plaitniffs have filed interim application under Order 39 Rule 1 and 2 R/w Section 151 of CPC along with plaint. The defendants have filed objection to the application. After hearing both side this Court passed an order dated 01-09-2023, allowing the application restrained the defendants from interfering either with administration of temple or from damaging any building compound or materials situated in suit schedule property by its hereditary trustees pending disposal of the suit. Against the said order the defendant No. 5 preferred Miscellaneous appeal in 20/2023 and the said appeal was dismissed on 22-01-2024, by confirming the order of the trial Court.

9. Against the order in appeal, the defendants have preferred WP 8609/2024 before the Hon'ble High Court of Karnataka, in which notice was issued to the other party and no stay order was given. The plaintiffs have filed complaint before the police with respect to interference of the defendants. The police have issued an endorsement to resolve the dispute before the Civil Court. Considering the facts and circumstances of the case it appears that it is necessary to give police protection for the administration and

pooja of the temple. If the application is not allowed, the very purpose of the order passed in on IA No. 2 will be defeated. Therefore this Court is of the opinion that the application needs to be allowed in the interest of justice. Accordingly, I proceed to pass the following:

ORDER

The IA No. 5 filed by the plaintiff Under Section 151 of CPC., is hereby allowed.

The PSI of the Gangolli P.S. is directed to give police protection for implementing the order passed on IA No. 2 dated 01-09-2023.

II Addl. Civil Judge and J.M.F.C.,
Kundapura

