

Reg. Civil Suit No. 81/2011**ORDER BELOW EXH. 35**

01. This is the application filed on behalf of the Plaintiff for granting status-quo in respect of the suit property. The defendants no. 4 and 5 filed their say at Exh. 39. Perused the application and say. Heard both the parties at length.

02. The Plaintiff states that, the defendants no. 3 to 5 are about to demolish the construction upon the suit property and to carried out new construction thereupon. The Plaintiff contends that, he has right of pre-emption and hence the defendants if carried out construction then the purpose of the suit would be frustrate. Hence, the Plaintiff claims the order of status-quo in respect of the Suit Property.

03. The defendants no. 4 and 5 have opposed the application. They state that, the application for temporary injunction is pending before this Court. The Court has passed an order to issue notice on the said application. Further, they state that the Plaintiff has filed another similar suit bearing RCS No. 60/2014 for declaration and injunction. The defendants contend that, the suit property is purchased by them vide a registered Sale-Deed. They have ½ share in the suit property vide the said Sale-Deed. Accordingly, the names of the defendants no. 4 and 5 are entered into the Property Card and Gavthan Patrak as the owners of the said portion of suit property. They further state that, injunction cannot be issued against lawful owner. Hence, they pray for the rejection of the application.

04. I have heard both the parties at length. The Ld. Advocate for the Plaintiff has filed a xerox copy of Chapter XX of Mohammedan Law, which is a Chapter of pre-emption. The Ld. Advocate for the Plaintiff heavily argued that, the Plaintiff has right of pre-emption and the registered Sale-Deed executed in favour of the defendants no. 4 and 5 is void-ab-initio. Hence, he is claiming status-quo. From the perusal of the record, it is evident that Exh. 5 is not yet decided. The application for temporary injunction is filed on 12-10-2011. The plaintiff whether has right of pre-emption as alleged is a question of merit and it would be decided during the course of trial. I have also perused the relevant documents. However, till then the nature of the property is to be preserved. The Sale-Deed executed in favour of the defendants no. 4 and 5 is a registered Sale-Deed. Further, their names are included as the owners of the Suit Property ($\frac{1}{2}$ portion). From the perusal of the application, it is evident that the Plaintiff is no-where stating that $\frac{1}{2}$ portion of the suit property, which is allegedly in his possession is demolished or about to be demolished from the defendants no. 4 and 5. In such a situation, it would be just and proper to direct the parties to maintain status-quo. From the contents of the application and from the perusal of the record, I observed that there is justified ground to grant status-quo. Hence, I pass the following order :-

ORDER

01. The application below Exh. 35 is allowed with costs.

02. The defendants No. 4 and 5 are directed to maintain status-quo in respect of suit property till the disposal of suit.

Radhanagari.

Date :- 04-09-2014.

sd/-

(A. S. Atre)

Civil Judge, Jr. Dn., Radhanagari.