

Reg. Civil Suit No.41/2024
Mangala -vs- Shilpa

ORDER BELOW EXH.14
(Dated 06/04/2024)

The plaintiff has filed the present application for seeking status quo in respect of the suit property till filing reply on temporary injunction application.

2] The plaintiff submitted that the defendant is appeared on today and filed an application for grant of time to file written statement and reply on temporary injunction application. The defendant is doing construction contentiously. The defendant if fill up the column near by the house of the plaintiff by breaking the compound wall it cause a heavy loss to the plaintiff, which cannot be compensated. Hence, status quo be granted.

3] Learned counsel for the defendant filed reply overleaf of the application. He submitted that the defendant constructed her house as per due procedure of law with having all permissions from the competent authority. On the contrary, the plaintiff deliberately obstacle the construction in order to harass the defendant. Hence, the application be rejected.

4] Perused the application, say and record. Heard. From which, following points arise for my determination. They are answered with my findings for the reasons thereunder:

<u>Points</u>	<u>Findings</u>
1. Whether the plaintiff made out prima-facie case...?	: Yes
2. Whether the plaintiff proves that, balance of convenience lies in his favour...?	: Yes.
3. Whether the plaintiff will suffer irreparable loss if temporary injunction is not granted...?	: Yes
4. What order...?	: The application is allowed

REASONS

Point Nos. 1 to 4 :-

05] It is well settled law that, the application for status quo is covered by three important principles i.e. i) prima-facie case, ii) balance of convenience and iii) on refusal of injunction, the applicant would suffer irreparable loss.

06] According the plaintiff the defendant is appeared in the present case but failed to file reply on temporary injunction application and constructed is going on. It is admitted fact that after service of summons the defendant is appeared, but failed to file either written statement or reply on the temporary injunction application. On perusal of averments of plaint it appears that the defendant illegal trying to construct the house and one column near the compound wall of north side erected by breaking compound wall. In this respect I perused photographs at Exh.4/8 and 4/9 as well as Exh.8/2, from which it appears that the construction of column touching to compound wall by

breaking compound wall is going on, which shows the status at present. The defendant in reply has admitted that she is doing construction over the suit property. The defendant further contended she is doing construction by obtaining all relevant permissions from the competent authority and in support of her contention she filed all relevant documents which include commencement certificate of construction, sanction map. However, the defendant has not filed reply for temporary injunction application. Thus, under such circumstances considering the status of construction particularly construction of column towards north side of plaintiff house status quo needs to be granted till filing of reply on the temporary injunction application.

07] Considering the discussion herein above the plaintiff has made out prima-facie case. Therefore, balance of convenience lies in her favour. The status quo if not granted at this stage she may suffer irreparable loss. Hence, I answer point No.1 to 3 in affirmative and in answer to point No.4 I pass following order:

ORDER

- 1] The application (Exh.14) is allowed.
- 2] The defendant shall maintain status quo pertaining to the suit property particularly column towards north side till filing of reply on temporary injunction application.

Dated : 06/04/2024.
Kamptee.

(Amit A. Kulkarni)
Civil Judge, Junior Division
Kamptee.