

KABC0A0023442024



**ORDERS**

*Plaintiff has filed the instant suit for the relief of perpetual prohibitory injunction restraining defendant, their men, agents or anybody through or under them from demolishing the suit building constructed on the schedule property or interfering with the plaintiff's peaceful possession of the schedule property.*

*Along with the suit, plaintiff has filed IA No.I u/O XXXIX Rule 1 and 2 r/w Sec.151 of CPC seeking exparte temporary injunction against the defendant from demolishing any portion of the suit building or in any way interfering with the plaintiff's peaceful possession of the suit property.*

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Plaintiff has produced the xerox copies of the JDA dated 02.01.2023, sale deed dated 01.12.2022, katha certificate, tax paid receipt, building license, L.P. No.BBMP/Ad-Com/DSH/0244/22-23, dated 29.12.2022, Legal Notice dated 29.02.2024 U/Sec.482(1) of KMC Act, original postal receipt and acknowledgment and photograph of the schedule building. The recitals of the above documents would prima-facie support the contention of the plaintiff that under the registered sale deed dated:01/12/2022 the owner has purchased the suit schedule property for which the plaintiff is the Joint Development cum Construction Agreement holder under JDA dated 02.01.2023 and the khatha has been transferred in his name and he is in possession of the schedule property.

In the affidavit annexed to the application, the plaintiff has stated that, the owner with a view to construct a semi commercial & residential hostel building on the schedule property consisting of stilt, ground, first, second, third including terrace floor and the plaintiff being builder and JDA holder has prepared and submitted the plan before the defendant authority as per law and when he is constructing the building, the officials of defendant visiting the suit property and posing threats of demolition of the suit building without giving notice

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as contemplated in law. He stated that before filing of the instant suit, plaintiff has issued statutory notice to the defendant U/Sec.482(1) of KMC Act. The said notice was duly served to the defendant. In the affidavit annexed to the application, the plaintiff has stated that, after receipt of statutory notice, the defendant did not give reply but, his officials are visiting the suit property and putting threats of demolition. When such is the case, if notice of I.A.No.I is ordered to be issued and in the meanwhile if the defendant demolished the suit building or any portion thereof, the very purpose of granting the injunction would be defeated. Hence, in order to preserve the property and also to avoid multiplicity of the proceedings, it is necessary to grant an exparte injunction order atleast till the next date of hearing. Accordingly, I proceed to pass the following:-

**ORDER**

Ad-interim order of temporary injunction is granted as prayed in IA No.I till next date of hearing.

Defendant, their men, agents, officials or anybody through or under them are restrained from demolishing any portion of the application schedule building and/or in any way interfering with the plaintiff's lawful possession of the suit property till the next date of hearing.

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*Plaintiff is directed to strictly comply the provisions of Order XXXIX Rules 3 (a) and (b) of CPC.*

*Office is directed to issue emergent notice on I.A. No.I, suit summons and TI order to defendant both through court process and RPAD.*

*Certified copy of this order be issued only after plaintiff comply the provisions of XXXIX Rule 3(a) and (b) of CPC and take steps against defendant as ordered.*

*Returnable by, 30-08-2024*

*LXXIV A.C.C. & S.J. (CCH-75),  
Mayo Hall Unit, Bengaluru.*