

Precedent No. 35

AFFIDAVIT: IN AN APPEAL - SEEKING TEMPORARY INJUNCTION

BEFORE THE HON'BLE DISTRICT COURT,

I.A. No of 20

In

C.M.A. No of 20

IN THE MATTER OF:

A.B.

....PETITIONER

VERSUS

B.C

.....RESPONDENT

AFFIDAVIT

I....., S/o, aged.....years, now residing in.....

1. The deponent abovenamed hereby solemnly affirms and states as follows:—
2. That the deponent is the petitioner in the Application and the appellant in the appeal referred to above. The deponent is well conversant with the facts and circumstances of the present case and stands competent to swear to this affidavit.
3. That the said appeal is preferred against the order dismissing an application for temporary injunction restraining the respondent from letting out waste water from her property into the property of the deponent until the suit is finally disposed of.
4. That the respondent is a neighbor of the property of the deponent where the deponent's factory is situated. She does not have any right to create difficulties or cause nuisance to the deponent or his employees and workmen. There is a clear-cut boundary delineating and separating the deponent's factory compound and the compound of the residence of the respondent. She has got ample space to create sewage facilities to send out the waste water in her property to the public canal maintained by theMunicipality. It is induced by the malice and with a view to create difficulties and causing nuisance to the deponent that she has stopped the flow of waste water into the canal and facilitated the flow of waste water into the property of the deponent causing considerable damage to the latter.

5. That it may also be mentioned that the respondent was willing to purchase the property which is presently owned by the deponent from its previous owner and ever since the deponent purchased the said property and set-up the factory, the respondent started attempting one way or the other to cause obstruction in the proper running of the deponent's factory.
6. That the deponent made requests to the respondent repeatedly to put an end to her nefarious and mischievous activities. However, all the requests of the deponent have fallen on deaf ears and the respondent continues to carry on the aforesaid activities till date.
7. That it was with the abovementioned grievance that the deponent found himself forced to file a suit, O.S. No on, against the respondent before the Hon'ble Subordinate Judge's Court,.....
8. That the said Hon'ble Court, however, passed an order dated....., disallowing the grant of permanent prohibitory injunction against the respondent therein.
9. That it is aggrieved by the aforesaid order that the deponent preferred the appeal referred to above on.....
10. That it is respectfully submitted that the facts disclosed in the appeal and in the affidavit and the documents produced by the deponent will show that he has a *prima facie* case.
11. If the injunction sought is granted in favour of the deponent, the respondent will suffer no harm whatsoever as she can conveniently let out the waste water into the public canal as she was doing earlier. On the other hand, if the injunction sought is not granted in favour of the deponent, he is bound to suffer irreparable loss and injury incapable of being adequately remedied by damages, considering the fact that the waste water let out by the respondent will flood the compound of the deponent's factory and will not only hamper the activities carried on in the deponent's factory but also pose a grave health hazard to the deponent and the workers in his factory.
12. In view of the aforementioned circumstances, it is just and necessary that this Hon'ble Court may be pleased to pass an *ex parte* order of temporary injunction restraining the respondent herein or her employees, servants, agents or representatives from letting out the waste from her property into the property of the deponent until the suit is finally disposed of.

Sd./

Deponent.

VERIFICATION

Verified at on this theday of, 20...., that the contents of the above affidavit are true and correct to the best of my knowledge, belief and information and nothing material has been concealed therefrom.

Sd./

Deponent.

Solemnly affirmed and signed before me by the deponent, who is personally known to me, on this the day of, 20

Sd./

Counsel for the deponent.

Note: Affidavit to be attested by the appropriate authority prescribed under law. Prayer may be deleted from affidavit as facts normally are given therein.

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