

ORDER

The suit is filed by the Plaintiff for the relief of permanent injunction restraining the defendants from publishing the book titled "Tippu Nija Kanasugalu" and to stop the play derived from the book which takes place on 20.11.2022 and for costs of the suit.

2. The Plaintiff has also filed IA No.I under Order XXXIX Rule 1 & 2 and r/w 151 of CPC praying for an order of temporary injunction restraining the defendants from publishing the book and to stop the play derived from the book in the interest of justice and equity.

3. The perusal of the records show that the Plaintiff has a prima-facie case to pass an ex-parte order of injunction as below. The Plaintiff has produced the book containing the play written by the defendant No.1 and published by the defendant No.2 and printed by the defendant No.3.

4. The plaintiff has stated that he is the former Chairman of the District Wakf Board Committee and a resident of Bengaluru and claims that he has served his community in the field of education and political development and has conducted programs for the betterment of the community. The plaintiff has stated that the entire book which is written by the defendant No.1 and published by defendant No.2 contains wrong information without any support or justification from history. He has stated that the book does not show as to from where he has got the information. He has stated that the book is published without the knowledge of the history and on his own interpretation of facts. He has stated that the "Azaan" which is the religious practice of the Muslim community is extracted in the Book wrongly in order to hurt the feelings of the Muslim community. He has also stated that the word "turukaru" used in the book is a derogatory remark against the Muslim community. He has stated that the publication of this book would cause unrest and communal disharmony disturbing the public peace at large. These averments of the plaint would prima facie show that the plaintiff has the cause of action to file the suit against the defendants and he can maintain the suit in his individual capacity.

5. The original book containing the play is produced. The reading of the Foreword and the Preface of the book shows that the writer of the Foreword and the Author of the play in the Preface claim that it is based on truth and precision of the history. They have claimed that the play is based on the true history and what is actually written in history and taught through text books in schools is false. It is also claimed that the it is based on research and is

published with an intention to unveil the true nature of Tippu Sulthan.

6. These contentions by the Author would prima facie show that the plaintiff has a prima-facie case to grant the order of temporary injunction as below. The plaintiff has claimed that the contents of the play are false and does not contain true facts. The author claims that what is actually written in the history and text books about Tippu Sulthan are not the correct facts and what is written in the play is based on true history to unveil the true nature of Tippu Sulthan. This has to be proved by the defendants no.1 to 3 during trial.

7. If the contents of the play are false and it contains false information about Tippu Sulthan, and if the same are distributed, it would cause irreparable loss to the plaintiff and there are chances of breach of communal peace and harmony and there is a danger to the public peace. If the book is circulated pending appearance of the defendants, the purpose of the application itself would be defeated. It is common knowledge that the controversial books sell like hot-cakes. Therefore at this stage the balance of convenience is in favour of the plaintiff in granting the order of injunction as below.

8. The play based on the book is arranged in Mysuru. The defendant no.4 is in Mysuru. Therefore this Court is of the opinion that this Court cannot grant the injunction to stop the play. There is no apprehension that the play would be arranged within the jurisdiction of this court. Hence no order of ex parte temporary injunction to stop the play is granted in this order.

9. In the ruling reported in ILR 1994 KAR. 2817 in the case of LIC V/s LIC Employees Housing Co-Operative Society Limited, it is held that whenever the order of temporary injunction is granted the parties must be put on terms. This Court is of the opinion that this principle has to be followed more strictly when an ex-parte order of injunction is passed. The plaintiff should not misuse this order of injunction. Therefore, to protect the interest of the

defendants No.1 to 3 it is specifically ordered that the defendants are at liberty to print and store the books if the defendants want to do so at their own risk.

Hence this Court proceeds to pass the following:-

ORDER

The Defendant No.1 to 3 and the persons and the agents claiming through or under them are restrained by way of temporary injunction from distributing and also selling including in the on-line platform, the book by name "Tippu Nija Kanasugalu" written in kannada language by the defendant No.1, published by the defendant No.2 and printed by the defendant No.3.

This order of injunction will not come in the way of the defendant No.1 to 3 from printing the said books at their risk and storing the books which are already printed.

Issue emergent notice of I.A.No.1 and suit summons to the defendants and the ex-parte order of T.I against defendants No.1 to 3 after the Plaintiff complying with the order of XXXIX Rule 3 of CPC.

The office is directed not to issue the certified copy of this order sheet till the plaintiff complying order XXXIX Rule 3 of CPC and paying the required process fee to issue process to the Defendants as above.

For appearance of the defendants by: 3/12/2022

**(J.R.Mendonca),
XIV ACC & SJ, B'luru.**