



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 19TH DAY OF DECEMBER, 2025
BEFORE
THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR
WRIT PETITION NO. 38505 OF 2025 (GM-CPC)

BETWEEN:

1. GALAMMA
D/O. LATE GALI HANUMAIAH
AGED ABOUT 59 YEARS
R/AT PATTANAGERE VILLAGE
KENGRI HOBLI
BENGALURU – 560 098.
2. ANJINAPPA
S/O. LATE GALI HANUMAIAH
AGED ABOUT 53 YEARS
R/AT NO.167
PATTANGERE VILLAGE
BANGALORE SOUTH TALUK
BANGALORE – 560 098.
3. SMT. MAHESHWARI
D/O. LATE GALI HANUMAIAH
AGED ABOUT 51 YEARS
R/AT NO.167
PATTANGERE VILLAGE
BANGALORE SOUTH TALUK
BANGALORE – 560 098.
4. NARAYANA G.
S/O. LATE GALI HANUMAIAH
AGED ABOUT 50 YEARS
R/AT NO.167
PATTANGERE VILLAGE
BANGALORE SOUTH TALUK
BANGALORE -560 09.8

...PETITIONERS

(BY SRI SHARATH S. GOWDA, ADVOCATE)

Digitally signed
by

GAVRIBIDANUR
SUBRAMANYA
GUPTA
SREENATH
Location: HIGH
COURT OF
KARNATAKA



AND:

1. GALLI HANUMANTHAPPA
S/O. LATE HANUMANRHAPPA
AGED ABOUT 59 YEARS
R/AT NO.110/A, 4TH CROSS
NEAR MARAMMA TEMPLE
PATTANAGERE
RAJARAJESHWARI NAGAR
BANGALORE SOUTH
BENGALURU – 560 098.
2. SMT. GALAMMA
D/O. LATE HANUMANTHAPPA
AGED ABOUT 56 YEARS
R/AT PATTANGERE VILLAGE
KENGARI HOBLI
BENGALURU – 560 098.
3. ANJAN MURTHY
S/O. LATE HANUMANTHAPPA
AGED ABOUT 45 YEARS
R/AT #167, NEAR MARAMMA
TEMPLE, PATTANGERE
RAJARAJESHWARI NAGAR
BANGALORE SOUTH TALUK
BANGALORE – 560 098.
4. BASAPPA
S/O. LATE SIDDAPPA
AGED ABOUT 98 YEARS
R/AT PATTANAGERE VILLAGE
KENGARI HOBLI
BENGALURU - 560 098.
5. SUSHEELAMMA
W/O. RAMAPPA
AGED ABOUT 85 YEARS
R/AT THEERTHAHALLI VILLAGE
SHIVAMOGGA – 577 432.



6. K.T. INDIRA
W/O. LATE K.M. THIMMAIAH
AGED ABOUT 83 YEARS
R/AT NO.M7, SCHOOL ROAD
SOMAVARPET, COORG – 571 236.
7. K.T.SANATH
S/O. LATE K.M. THIMMAIAH
AGED ABOUT 56 YEARS
R/AT NO.M7, SCHOOL ROAD
SOMAVARPET, COORG – 571 236.
8. M/.S M. SQUARE PROPERTIES
RE.P BY ITS SOLE PROPRIETOR
MR. NARESH KUMAR
S/O. LATE HEERACHAND
AGED ABOUT 53 YEARS
R/AT #62, 63, 88 AND 89
HOSAKEREHALLI
BSK III STAGE
BANGALORE – 560 085.
9. M/S. ELEGANT ALTIMA
A PARTNERSHIP FIR
HAVING ITS REGISTERED
OFFICE AT NO.11/13
GUBALAHALA VILLAGE
UTTARAHALLI
BANGALORE – 560 061
REP. BY ITS PARTNERS.
10. SRI S.N. MANJUNATH
S/O. SRI.M.SUBRAMANI
AGED ABOUT 37 YEAR
R/AT NO.1/116
NEW KEMPEGOWDA LAYOUT
BSK 3RD STAGE
BANGALORE - 560 085.
11. SRI S.RAJESH
S/O. SRI M.SUBRAMAN



AGED ABOUT 35 YEARS
R/AT NO.1/116,
NEW KEMPEGOWDA LAYOUT
BSK 3RD STAGE
BANGALORE - 560 085.

12. SRI S.JAYANTH
S/O. SRI M.SUBRAMANI
AGED ABOUT 32 YEARS
R/AT NO.1/116
NEW KEMPEGOWDA LAYOUT
BSK 3RD STAGE
BANGALORE-560 085.
13. SRI S.CHANDRAPRAKASH
S/O. LATE MUNASWAMY NAIDU
AGED ABOUT 60 YEARS
R/AT NO.767, SREENIKETHA
7TH MAIN, 3RD CROSS
KSRTC LAYOUT
J.P NAGAR, 2ND PHASE
BENGALURU - 560 075.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 26.06.2024 IN O.S.NO.4497/2024 PASSED BY THE XXXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-36) TO THE EXTENT OF NOT GRANTING AD INTERIM EX PARTE INJUNCTION ON AN APPLICATION FILED BY THE PLAINTIFFS UNDER ORDER XXXIXX RULE 1 AND 2 OF CPC, RESTRAINING THE DEFENDANTS OR ANYBODY CLAIMING UNDER THEM FROM CREATING 3RD PARTY INTEREST VIDE ANNEXURE-A AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL ORDER

Heard learned counsel for petitioners-plaintiffs.

2. The petitioners are the plaintiffs, who have instituted a suit in O.S.No.4497/2024 against the respondents-defendants before the trial Court seeking following reliefs:

- "a. The Plaintiffs are entitled for 1½ share in the suit schedule property and put them in separate possession with meets and bounds.*
- b. Declare that the registered Sale deed dated 08.03.1965 executed by Late Hanumanthappa in favour of Basappa registered as Document No.5784/1964-65, Book-I, Volume 506, pages 183 to 187 in the office of Sub Registrar, Bengaluru South Taluk as null and void and not binding on the share of Plaintiffs.*
- c. Declare that the registered Sale deed dated 02.02.1996 executed by Basappa in favour of Sanath registered as Document No.12705/1995-96 Book-I, Volume 1503, page 71-75 in the office of Kengeri Sub-Registrar as null and void and not binding on the share of Plaintiffs.*



- d. *Declare that the registered Sale deed dated 02.02.1996 executed by Basappa in favour of Susheelamma registered as Document No.12709/1995-96 Book-I, Volume 1503, page 78-82 in the office of Kengeri Sub-Registrar as null and void and not binding on the share of Plaintiffs.*
- e. *Declare that the registered Sale deed dated 25.11.2003 executed by Susheelamma in favour of K.T Indira registered as Document No.22934/2003-04 of Book-I, registered in the office of the Sub-Registrar, Kengeri as null and void and not binding on the share of Plaintiffs.*
- f. *Declare that the registered Gift deed dated 22.11.2006 executed by K.T Indira in favour of Sanath registered as Document No.30596/2006-07, in the office of Sub-registrar, Kengeri as null and void and not binding on the share of Plaintiffs.*
- g. *Declare that the registered Sale deed dated 26.03.2021 executed by Sanath in favour of M/s Elegant Altima registered as Document No.SHR-1-06548/2020-21 stored in CD No.SHRD693, Book-1, in the office of Shantinagar Sub-Registrar as null and void and not binding on the share of Plaintiffs.*



- h. Grant such other relief/s as this Hon'ble Court may deem fit in the circumstances of the case, in the interest of Justice.*
- i. For costs of this suit;"*

3. Along with the plaint, the plaintiffs have filed an applications in I.A.Nos.1 and 2 under Order XXXIX Rules 1 and 2 read with Section 151 of CPC, wherein they sought for an *ad interim ex parte* order of temporary injunction against defendant Nos.9 to 13 restraining them either through themselves, or their agents, servants or anybody claiming under them alienating or creating third interest and from putting up further construction over the suit schedule property pending disposal of the suit. The affidavit was also annexed to the said applications.

4. The trial Court, after hearing the petitioners-plaintiffs on the applications for grant of an *ad interim ex parte* order of temporary injunction filed under XXXIX Rules 1 and 2 read with Section 151 of CPC, issued an emergent notice on I.A.Nos.1 and 2 and suit summons to



the defendants. Aggrieved by which, the petitioners-plaintiffs are before this Court.

5. This Court does not find any need or necessity to issue notice to the respondents, as the same is not yet served before the trial Court on the suit proceedings or on the application.

6. It is the contention of the learned counsel for petitioners-plaintiffs that despite filing an applications under Order XXXIX Rules 1 and 2 of CPC and arguing the matter for grant of an *ad interim ex parte* order of temporary injunction, the trial Court has passed a vague order whereby neither the applications are allowed nor rejected. However, it has issued emergent notice by stating that it would be proper to hear the defendants before passing any interim order.

7. Under the circumstance, it would be appropriate to direct the trial Court to take up the matter on priority basis and pass suitable orders on the said applications,



whether the defendants are served partly or not, in order to protect the interests of the parties. Since the suit is for partition, no third-party rights are created.

8. When an application is filed under Order XXXIX Rules 1 and 2 of CPC in the suit proceedings, it is the duty and obligation of the trial Court to pass suitable orders on the said application by following Proviso to Order XXXIX Rule 3 of CPC, wherein the plaintiffs are seeking relief of an *ad interim ex parte* order of temporary injunction before issuance of notice to the defendants as the delay in issuance of notice would cause irreparable hardship and injury to the plaintiffs.

9. In those circumstances, it is provided in the provision that under extraordinary exceptional circumstances, if the trial Court is satisfied to grant such a relief prior to issuance of notice to the defendants, the same could be granted. It is not necessary in all cases that the trial Court would have to issue emergent notice or



hear the defendant/s before passing an *ad interim ex parte* order of temporary injunction. There are two stages arising out of the provision under Order XXXIX Rules 1 and 2 of CPC, i.e., to issue notice and thereafter, hear and pass orders when there is no urgency made out or the delay would not cause any harm to the plaintiff/s. However, on the contrary, when the delay in issuance of notice infringes the personal liberty, right or damage to the property or creates threat to the person or property of the plaintiff/s, the trial Court is obligated and duty bound to pass a reasoned order to protect the plaintiff and preserve his property.

10. It is relevant to note that while deciding the application under Order XXXIX Rules 1 and 2 of CPC, the trial Court would have to adhere to the judgments of the Hon'ble Apex Court in the cases of ***Shiv Kumar Chadha v/s Municipal Corporation of Delhi and others*** reported in ***(1993) 3 SCC 161, Time City infrastructure and Housing Limited Lucknow V/s***



State of U.P. and others reported in ***2025 SCC Online SC 1674***, the Co-ordinate Bench of this Court in the case of ***Vedant Fashions Pvt. Ltd. v/s Smt.Rajul Devi*** reported in ***2014 SCC OnLine Kar 7191*** and also this Court in the case of ***Karnataka State Cricket Association v/s Mr. Shashidhara A.V.*** in ***W.P.No.33725/2025 (decided on 17.11.2025)***.

11. However, in the present case on hand, the fact is that the trial Court has not bothered to pass a reasoned order either to grant or reject an *ad interim ex parte* order of temporary injunction. Hence, the order passed by the trial Court is not sustainable.

12. Accordingly, I pass the following:

ORDER

- i. This petition is ***disposed off***;
- ii. The matter is remitted back to XXXV Additional City Civil and Sessions Judge, Bengaluru to pass suitable orders on the applications filed under Order XXXIX Rules 1 and 2 of CPC. In case the defendants are served and objections are filed, the



same can be taken and if others are not served, the trial Court is at liberty to proceed and pass orders in accordance with law;

- iii. The trial Court shall pass suitable reasoned orders on the application under Order XXXIX Rules 1 and 2 by following due process of law and adhering to the provisions under Order XXXIX Rules 1 and 2 read with Section 151 of CPC, Proviso to Order XXXIX Rule 3 of CPC, the judgments of the Hon'ble Apex Court and the judgment of this Court, strictly;
- iv. The Petitioners are at liberty to move the trial Court during vacation for urgent interim relief;
- v. It is made clear that this Court has not expressed any opinion on merits of the matter.

Ordered accordingly.

**Sd/-
(PRADEEP SINGH YERUR)
JUDGE**

CPN
List No.: 1 Sl No.: 2