



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 18305 OF 2015 (GM-RES)

C/W

WRIT PETITION NO. 48837 OF 2014 (GM-RES)

IN WP No. 18305/2015

BETWEEN:

MR. MEZAAN MAQDOOM ALI
S/O LATE MAQDOOM ALI
AGED ABOUT 18 YEARS
RESIDING AT C-202
NAGARJUNA MEDOWS
DODDABALLAPUR ROAD,
YELAHANKA, BENGALURU - 560 064.

...PETITIONER

(BY SRI. PONNANNA, ADVOCATE
SRI. K.S. RAHUL KARIAPPA, ADVOCATE)

Digitally signed
by
ANNAPURNA G
Location: High
Court of
Karnataka

AND:

1. MAQSOOD & MAQDOOM
BENEFIT TRUST, ALI ESTATE
VASUDEVAPURA VILLAGE
YELAHANKA HOBLI - 560 064,
BENGALURU NORTH TALUK.
2. MR. MAQSOOD ALI @ LUCKY ALI
S/O LATE MAHMOOD ALI
AGED ABOUT 55 YEARS



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

NO.130, PRESTIGE OASIS
RAJANUKUNTE,
DODDABALLAPUR ROAD
YELAHANKA, BANGALORE NORTH TALUK
BENGALURU - 560 064.

3. MR. RAJIV KUMAR
S/O MR. BALDEV
AGED ABOUT 50 YEARS
NO.32, 'ANGASANA'
RAJANUKUNTE, BENGALURU - 560 064

...RESPONDENTS

(BY SMT. NAZIMA, ADVOCATE FOR
SRI. M.S. MUKARRAM, ADVOCATE FOR R1 AND R3;
SRI. SHREERAM T. NAYAK, ADVOCATE FOR R2)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS IN
MISC. PETITION NO.274 OF 2014 ON THE FILE OF THE
PRINCIPAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE
CITY AND AFTER GOING THROUGH THE PROPRIETY OR
OTHERWISE SET ASIDE THE ORDER DTD.25.6.2014 VIDE
ANNEX-A AND ETC.,

IN WP NO. 48837/2014

BETWEEN:

M/S. GREEN ORCHARDS FARMS HOUSE
A PARTNERSHIP FIRM HAVING ITS PLACE OF
BUSINESS AT NO.85/1, 1ST FLOOR,
K.H.ROAD, BANGALORE - 560 027,
REPRESENTED BY ITS



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

PARTNER SRI. SATISH PAI.

...PETITIONER

(BY SRI. VAMSHI KRISHNA C, ADVOCATE)

AND:

1. MAQSOOD & MAQDOOM BENEFIT TRUST
AT ALI ESTATE, VASUDEVAPURA VILLAGE,
YELAHANKA, BANGALORE NORTH TALUK,
BANGALORE - 560 064.
2. SRI. MAQSOOD ALI @ LUCKY ALI
S/O LATE SRI. MEHMOOD ALI
AGED ABOUT 55 YEARS,
RESIDING AT NO.130,
PRESTIGE OASIS, RAJANKUNTE,
DODDABALLPUR ROAD, YELAHANKA
BANGALORE - 560 064.
3. SRI.MAQDCOOM ALI (SINCE DECEASED)
REPRESENTED BY HIS SON
SRI. MEZAN ALI, MAJOR,
AT NO.130, PRESTIGE OASIS,
RAJANKUNTE, DODDABALLAPUR ROAD,
YELAHANKA, BANGALORE - 560 064.
4. SRI. RAJEEV KUMAR
S/O BALDEV RAJ KUMAR,
AGED ABOUT 50 YEARS,
AT NO.32, 'ANGSANA',
RAJANAKUNTE, BANGALORE - 560 064.

...RESPONDENTS

(BY SMT. NAZIMA, ADVOCATE FOR
SRI. M.S. MUKARRAM, ADVOCATE FOR R1 AND R4;
SRI. PONNANNA, ADVOCATE FOR



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

SRI. RAHUL CARIAPPA, ADVOCATE FOR R3
SRI. SHREERAM T. NAYAK, ADVOCATE FOR R2)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 25.6.2014 IN MISC. NO. 274/2014 PASSED BY THE PRINCIPAL CITY CIVIL COURT, BANGALORE VIDE ANN-W HOLDING THE SAME AS WITHOUT JURISDICTION AND ILLEGAL AND ETC.,

THESE PETITIONS, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

These two writ petitions arise out of the order passed by the Court below in Misc.No.274/2014, whereby an application filed under Section 34 of the Indian Trusts Act, 1882 (for short, 'the Act') seeking leave of the Court to enable the parties therein to enter into a registered Irrevocable Joint Development Agreement and Irrevocable General Power of Attorney came to be considered in a summary manner. The miscellaneous application was allowed permitting the applicants to enter into a registered Irrevocable Joint Development Agreement and



NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

CNR: KAHC010017852015

Irrevocable General Power of Attorney in terms of the conditions drafted and agreed upon by the parties to Misc.No.274/2014.

2. W.P.No.18305/2015 is filed by the petitioner questioning the said order primarily on the ground that, though he was arrayed as petitioner No.3 in the proceedings under Section 34 of the Act, he had already attained majority and, therefore, the proceedings could not have been prosecuted on his behalf through a Court-appointed guardian without notice to him. His contention is that the order obtained in Misc.No.274/2014, insofar as he is concerned, is without his participation and consequently cannot bind him.

3. W.P.No.48837/2014 is filed by a person claiming to be a bona fide purchaser of the properties which formed the subject matter of the proceedings in Misc.No.274/2014. His grievance is that, pursuant to the order passed by the Court below, the parties to the miscellaneous proceedings have created and registered an Irrevocable Joint Development Agreement and an Irrevocable General Power of Attorney dated



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

06.08.2014, thereby allegedly affecting and prejudicing his rights in respect of the subject properties.

4. It is not in dispute that the petitioner in W.P.No.48837/2014 was not a party to the proceedings in Misc.No.274/2014.

Contentions And Material Proceedings

5. Learned counsel appearing for the petitioner in W.P.No.18305/2015 would contend that the petitioner had attained majority and, therefore, could not have been represented by a Court-appointed guardian in proceedings under Section 34 of the Act. It is argued that an order obtained behind his back cannot prejudice his independent rights.

6. Learned counsel appearing for the petitioner in W.P.No.48837/2014 would contend that the petitioner is a bona fide purchaser of the subject properties and that the subsequent execution and registration of the Irrevocable Joint Development Agreement and Irrevocable General Power of Attorney dated 06.08.2014 have been brought about pursuant



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

to the order passed in Misc.No.274/2014. According to the petitioner, the said documents are illegal, null and void and cannot affect his rights.

7. The significant feature which emerges from the pleadings and the material placed before this Court is that the very validity and binding nature of the registered Irrevocable Joint Development Agreement and Irrevocable General Power of Attorney dated 06.08.2014 are already the subject matter of adjudication in a comprehensive civil suit, namely, O.S.No.825/2015.

8. The prayers sought in the said suit are extracted hereunder:

"a. Declaring that the alleged registered Irrevocable Joint Venture Agreement dated 06/08/2014 executed by 2nd and 3rd Defendants in favour of 1st Defendant in respect of Schedule, 'A' and 'B' properties is null and void and the same is not binding on the plaintiffs.

b. Declaring that the alleged Power of Attorney dated 06/08/2014 executed by the 2nd and 3rd Defendants in favour of the 1st Defendant pursuant to the execution of the alleged Irrevocable Joint Venture Agreement in respect of Schedule 'A' and 'B' properties is null and void and the same is not binding on the plaintiffs.



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

C. pass permanent injunction restraining defendants, their servants, agents, henchmen, attorneys or any one claiming under them from alienating and disposing off suit Schedule 'A' and 'B' properties in favour of any third party by way of sale, gift deed, mortgage or any other mode of conveyance;

d. Grant permanent injunction restraining defendants, their servants, agents, henchmen, attorneys or any one claiming under them from interfering with the peaceful possession and enjoyment of the Schedule 'A' and 'B' properties.

e. Grant cost of this suit; and

f. Grant such other further relief as may deem fit in the circumstances of the case."

(emphasis supplied)

Scope Of Section 34 of The Act

9. Before examining the effect of the pending civil suit, it would be appropriate to notice the limited scope of proceedings under Section 34 of the Act. Section 34 is intended to enable a trustee to obtain the opinion, advice or direction of the Court on questions relating to the management or administration of trust property or the carrying out of the trust. The jurisdiction exercised thereunder is essentially supervisory and advisory in character and is not intended to substitute a regular civil trial for adjudication of disputed proprietary or contractual rights.



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

10. Proceedings under Section 34 of the Act are summary proceedings. The Court, while exercising jurisdiction under the said provision, is not called upon to finally determine title, possession, validity of competing conveyances, contractual rights or other contentious questions which require adjudication upon pleadings and evidence. The Court's consideration is confined to the question as to whether, in the circumstances placed before it, an opinion, advice or direction can appropriately be rendered in the interest of proper administration of the trust.

11. Consequently, an order passed under Section 34 of the Act cannot be construed as a decree adjudicating the substantive rights of persons claiming title or interest in the trust property. More particularly, when serious and disputed questions of title, validity of documents, bona fides of purchasers, competency of parties, or the binding nature of a transaction arise, such questions ordinarily fall outside the limited and summary jurisdiction contemplated under Section 34 and are required to be worked out in an appropriate substantive civil proceeding.



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

12. The Court exercising jurisdiction under Section 34 is, therefore, not required to conduct a full-fledged trial into disputed questions of fact. The opinion or direction rendered in such proceedings is necessarily subject to the substantive rights of the parties being adjudicated by the competent civil court in appropriate proceedings.

13. In the present case, the petitioner in W.P.No.48837/2014 has already instituted O.S.No.825/2015 seeking, *inter alia*, a declaration that the registered Irrevocable Joint Development Agreement and the consequential Power of Attorney dated 06.08.2014 are null and void and not binding upon him. Thus, the principal grievance raised by the petitioner in the connected writ petition is already directly and substantially in issue before the competent civil court.

14. The petitioner in W.P.No.48837/2014 cannot, therefore, be permitted to pursue a parallel remedy before this Court for determination of questions which are already pending adjudication in the comprehensive civil suit. Whether the petitioner has acquired an independent and valid title over the subject properties, whether he is a bona fide purchaser, and



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

whether the subsequent Irrevocable Joint Development Agreement and Irrevocable General Power of Attorney are binding upon him are all matters which involve disputed questions of fact and law. Such questions necessarily require adjudication by the competent civil court upon appreciation of pleadings, documents and evidence.

15. Equally, the grievance of the petitioner in W.P.No.18305/2015 that he had attained majority and, therefore, could not have been represented through a Court-appointed guardian in Misc.No.274/2014, also gives rise to a factual controversy. The question as to the petitioner's age and legal status at the relevant point of time, the circumstances in which he was represented before the Court below, and the legal consequences flowing there from are matters which can appropriately be urged and established in the pending civil suit.

16. Significantly, the petitioner in W.P.No.18305/2015 is arrayed as defendant No.3 in O.S.No.825/2015. He is, therefore, not without a remedy. He is entitled to enter appearance and place before the civil court all his objections, including the contention that he had attained majority, that he



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

was improperly represented in the proceedings under Section 34 of the Act, and that the order passed in Misc.No.274/2014 as well as the documents executed pursuant thereto are not binding upon him.

17. This Court also finds it necessary to emphasize that the order passed in proceedings under Section 34 of the Act cannot, by itself, be treated as an adjudication of the substantive rights of the parties in respect of the subject properties. The very nature of the jurisdiction under Section 34 is summary. The Court below was not exercising the jurisdiction of a civil court in a suit for declaration of title or for adjudication of the validity of the transaction inter se the parties and third parties.

18. Therefore, the validity, enforceability and binding nature of the registered Irrevocable Joint Development Agreement and Irrevocable General Power of Attorney dated 06.08.2014, as well as the rights claimed by the respective parties over the subject properties, are matters which must be left open for adjudication in O.S.No.825/2015. Any finding by this Court at this stage, either affirming or invalidating the



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

transaction, would necessarily amount to an adjudication of issues which are already *sub judice* before the competent civil court.

19. In view of the comprehensive nature of the suit pending in O.S.No.825/2015, this Court is of the considered view that both the petitioners are required to be relegated to the said proceedings to work out their respective remedies. The petitioner in W.P.No.48837/2014, being the plaintiff therein, is at liberty to establish his alleged title and the consequential reliefs sought against the registered Irrevocable Joint Development Agreement and Irrevocable General Power of Attorney. Likewise, the petitioner in W.P.No.18305/2015, being defendant No.3, is at liberty to urge all his defences, including his contention regarding attainment of majority and the alleged invalidity or non-binding nature of the proceedings conducted through the Court-appointed guardian.

20. Since the core and central disputes raised in both these writ petitions are already the subject matter of adjudication in the comprehensive civil suit, this Court would



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

not be justified in permitting parallel adjudication of the same issues in exercise of its writ jurisdiction.

21. Accordingly, without expressing any opinion on the merits of the rival claims, the impugned order passed in Misc.No.274/2014 is not interfered with at this stage. All questions relating to the validity, enforceability and binding nature of the Irrevocable Joint Development Agreement and Irrevocable General Power of Attorney dated 06.08.2014, the rights of the respective parties over the subject properties, and the petitioner's claim regarding his majority and representation through a Court-appointed guardian are left open for consideration by the competent civil court in O.S.No.825/2015.

22. The petitioners are accordingly at liberty to substantiate their respective rights and contentions in the pending suit. The competent civil court shall adjudicate the issues arising therein independently, uninfluenced by any observation contained in this order or by the order passed in Misc.No.274/2014, except to the extent required to consider the documents and pleadings forming part of the record.



CNR: KAHC010017852015

NC: 2026:KHC:48576
WP No. 18305 of 2015
C/W WP No. 48837 of 2014

With the aforesaid observations and reserving liberty to the petitioners to work out their remedies in O.S.No.825/2015, both the writ petitions stand ***disposed of***.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

HDK
List No.: 1 Sl No.: 15