



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 17881 OF 2021 (GM-CPC)

C/W

WRIT PETITION NO. 1174 OF 2022 (GM-CPC)

IN WP No. 17881/2021

BETWEEN:

SMT. H.K. SUMITHRA @ RENUKAMMA
AGED ABOUT 44 YEARS
W/O SRI. JANARDHANA REDDY
D/O KRISHNA REDDY @ KRISHNAPPA
R/AT SURVEY NO. 87/3, KODATHI VILLAGE
CARMELARAM POST, SARJAPURA MAIN ROAD
BENGALURU - 560 035.

...PETITIONER

(BY SMT. ANUPAMA M.V, ADVOCATE)

AND:

1. SRI. K.H. MUNISHAMY REDDY
AGE ABOUT 49 YEARS
S/O LATE SRI. M. HANUMAIAH
2. SMT. N. SUGUNA
AGE ABOUT 43 YEARS
W/O LATE K.H. MUNISWAMY REDDY
RESIDING AT SURVEY NO. 166/1B1
KODATHI VILLAGE, CARMERLARAM POST



SARJAPURA MAIN ROAD
BENGALURU - 560 035.

...RESPONDENTS

(BY SRI. ARJUN KUMAR, ADVOCATE FOR
SRI. G. MANIVANNAN, ADVOCATE AND
SRI. G. PRAKASH, ADVOCATE FOR R1 AND R2)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
RECORDS PERTAINING TO MISCELLANEOUS APPEAL
NO.40/2017, WHICH WAS PENDING BEFORE THE COURT OF
THE I ADDITIONAL SENIOR CIVIL JUDGE, BANGALORE RURAL
DISTRICT, BANGALORE AND ETC.,

IN WP NO. 1174/2022

BETWEEN:

SMT. H.K. SUMITHRA @ RENUKAMMA
AGE ABOUT 44 YEARS
W/O SRI. JANARDHANA REDDY
D/O KRISHNA REDDY @ KRISHNAPPA
R/AT SURVEY NO. 87/3, KODATHI VILLAGE
CARMELARAM POST, SARJAPURA MAIN ROAD
BENGALURU - 560 035.

...PETITIONER

(BY SMT. ANUPAMA M.V, ADVOCATE)

AND:

1. SRI. K.H. MUNISHAMY REDDY
AGE ABOUT 50 YEARS
S/O LATE SRI. M. HANUMAIAH
2. SMT. N. SUGUNA
AGE ABOUT 44 YEARS
W/O LATE K.H. MUNISWAMY REDDY



NC: 2026:KHC:32090
WP No. 17881 of 2021
C/W WP No. 1174 of 2022

RESIDING AT SURVEY NO. 166/1B1
KODATHI VILLAGE, CARMERLARAM POST
SARJAPURA MAIN ROAD
BENGALURU - 560 035.

...RESPONDENTS

(BY SRI.ARJUN KUMAR FOR SRI.G.MANIVANNAN, ADV.,
FOR C/RESPONDENT Nos.1 AND 2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO-CALL FOR THE
RECORDS PERTAINING TO ORIGINAL SUIT BEARING
NUMBER 630/2014, PENDING BEFORE THE COURT OF THE
2ND ADDITIONAL CIVIL JUDGE, BANGALORE RURAL
DISTRICT AT BANGALORE.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

W.P.No.17881/2021 is filed by the plaintiff
challenging the order dated 04.03.2017 passed on I.A in
O.S.No.630/2014 by the I Additional Civil Judge,
Bengaluru Rural District, Bengaluru (for short 'the Trial
Court') and the order dated 22.03.2019 passed in
M.A.No.40/2017 by the I Additional Senior Civil Judge,
Bengaluru Rural District, Bengaluru (for short 'the



Appellate Court'). W.P.No.1174/2022 is filed by the plaintiff challenging the order dated 22.07.2021 passed in O.S.No.630/2014.

2. Heard Smt.Anupama M.V, learned counsel appearing for the petitioner and Sri.Arjun Kumar, learned counsel appearing for Sri.G.Manivannan, learned counsel for Caveat respondent Nos.1 and 2.

3. The petitioner has filed a suit in O.S.No.630/2014 seeking judgment and decree to declare that the plaintiff and her family members are having an easementary right over the road/path A, B, C and D as per the rough sketch annexed to the plaint which is existing in Survey No.166/1B of Kodathi Village and to grant permanent injunction against the defendants. In the said suit, the plaintiff filed an application under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC. The said application was opposed by the respondents - defendants. The Trial Court vide Order dated 04.03.2017 rejected the said application.



Being aggrieved, the plaintiff preferred an appeal in M.A.No.40/2017 and the Appellate Court vide order dated 22.03.2019 dismissed the appeal by affirming the order of the Trial Court dated 04.03.2017 passed on I.A.No.I in O.S.No.630/2014.

4. The contention of the learned counsel appearing for the petitioner is that the petitioner - plaintiff is the owner of the property in Survey No.87/3 and the said property is acquired by the plaintiff under a registered Will dated 01.08.2005 and they are in use and enjoyment of the said property. It is further case of the plaintiff that the plaintiff being the owner of Survey No.87/3 has a right to use the road which is in existence shown in the sketch to the plaint as A to D and the defendants are obstructing the same. In order to establish the *prima facie* case for grant of temporary injunction, the plaintiff has pleaded that the plaintiff has acquired the right through a registered Will dated 01.08.2005 in respect of Survey No.87/3 to the extent of 2 acre 1.5 guntas and they are in use and



enjoyment of the property. It is contented that the plaintiff's family is using the road in Survey No.166/1B to reach their home from the main road and the said road is the only road for the ingress and egress. The defendants opposed the application.

5. It is to be noticed that the plaintiff as well as others are the owners of the property measuring 2 acre 1.5 guntas in Survey No.87/3 and they claimed to be in use of the road for their ingress and egress in Survey No.166/1B. In order to prove the use of the said road, they have not placed any documentary evidence before the Trial Court. The Will produced by the plaintiff does not indicate the existence of road in Survey No.166/1B. The plaintiff has also relied on the judgment and decree in O.S.No.1103/2006.

6. A perusal of the said decree indicates the existence of a road, but, it is not forthcoming as to whether it is the same road found in the sketch annexed to the plaint. It is



also required to be noticed that the plaintiff herein is not a party to the proceedings in O.S.No.1103/2006. The dispute in the said suit is between the family members of the plaintiff and the defendants. The Trial Court as well as the Appellate Court, considering the evidence and the case pleaded before it, have rightly come to the conclusion that the plaintiff has failed to prove the *prima facie* case to grant the temporary injunction. I do not find any error in the finding calling for interference in this petition.

7. Learned counsel appearing for the plaintiff has further contended that during the pendency of the said suit in the disputed road, the defendants have illegally put up the structure and for such an act, the plaintiff has filed an application seeking amendment of the plaint which came to be rejected by the Trial Court under the order dated 22.07.2021. It is to be noticed that the assertion of the plaintiff is that the defendants are putting up the construction in Survey No.166/1B and in order to substantiate the said contention, the plaintiff has produced



photographs and the said assertion is with regard to events that have occurred after filing of the plaint. Hence, I am of the considered view that the proposed amendment sought to the plaint and additional relief of mandatory injunction is required to be granted.

8. For the aforementioned reasons, I proceed to pass the following;

ORDER

(i) Writ Petition No.17881/2021 is ***dismissed***.

(ii) Writ Petition No.1174/2022 is ***allowed***.

(iii) Impugned order dated 22.07.2021 passed in O.S.No.630/2014 by the II Additional Civil Judge, Bengaluru Rural District,, Bengaluru is *set aside*.

(iv) Consequently, the plaintiff's application filed under Order VI Rule 17 of CPC, seeking for amendment of the plaint is *allowed*.



(v) The defendants are at liberty to file additional written statement, if any.

No orders to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

GH
List No.: 1 Sl No.: 32