



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 4241 OF 2026 (GM-CPC)

C/W

WRIT PETITION NO. 4314 OF 2026 (GM-CPC)

IN WP No. 4241/2026

BETWEEN:

1. SRINIVAS M
S/O LATE MASIYAPPA
AGED ABOUT 62 YEARS
DODDAULLARTHY VILLAGE
CHALLAKERE TALUK - 577 522

2. RAGHUCHANDAN
S/O M CHANDRAPPA
AGED ABOUT 34 YEARS
SECRETARY,
INDIAN INTERNATIONAL SCHOOL,
CHALLAKERE GATE
CHITRADURGA - 577 522

...PETITIONERS

(BY SRI. P.P. HEGDE, SENIOR COUNSEL FOR
SRI. GANAPATHI BHAT, ADVOCATE)

AND:

1. PRABHUDEVA D.
S/O DANAPPA A.S.
AGED ABOUT 52 YEARS

Digitally
signed by
SUVARNA T
Location:
HIGH
COURT OF
KARNATAKA



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

R/O "JANANI" SANNAPA LAYOUT
JOGIMATTI ROAD,
CHITRADURGA - 577 501

2. THE HEAD MASTER
M.M. HIGH SCHOOL STADIUM ROAD
CHITRADURGA - 577 501

...RESPONDENTS

(BY SRI. S. SREEVATSA, SENIOR COUNSEL FOR
SRI. ABHISHEK M.K., ADVOCATE FOR R1)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED
ORDER DATED 28.01.2026 VIDE ANNEX-F2 PASSED BY THE
COURT OF I ADDL. CIVIL JUDGE AND JMFC CHITRADURGA IN
O.S.NO.326/2022 ALLOWING I.A.NO.16 FILED BY
RESPONDENT-PLAINTIFF UNDER SECTION 151 OF CPC FOR
POLICE PROTECTION.

IN WP NO. 4314/2026

BETWEEN:

1. SRINIVAS M
S/O LATE MASIYAPPA
AGED ABOUT 62 YEARS
DODDAULLARTHY VILLAGE
CHALLAKERE TALUK - 577 522
2. RAGHUCHANDAN
S/O M CHANDRAPPA
AGED ABOUT 34 YEARS
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WP No. 4241 of 2026
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CHITRADURGA - 577 522

...PETITIONERS

(BY SRI. GANAPATHI BHAT, ADVOCATE)

AND:

1. PRABHUDEVA D
S/O DANAPPA A.S.
AGED ABOUT 52 YEARS
R/O "JANANI", SANNAPA LAYOUT
JOGIMATTI ROAD,
CHITRADURGA - 577 501

2. THE HEAD MASTER M M
HIGH SCHOOL STADIUM ROAD
CHITRADURGA - 577 501

...RESPONDENTS

(BY SRI. S. SREEVATSA, SENIOR COUNSEL FOR
SRI. ABHISHEK M.K., ADVOCATE FOR R1)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER DATED 28-01-2026 VIDE ANNEXURE-G2 PASSED BY THE COURT OF I ADDL. CIVIL JUDGE AND JMFC CHITRADURGA IN O.S NO. REJECTING 326/2022 NO.17 FILED BY I.A PETITIONERS/DEFENDANTS UNDER ORDER 26 RULE 9 OF CPC AND CONSEQUENTLY ALLOW I.A.NO. 17 VIDE ANNEXURE-G AS PRAYED FOR THEREIN.

THESE PETITIONS, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

COMMON ORAL ORDER

Aggrieved by the order passed on IA Nos. 16 and 17 in O.S.No.326/2022 dated 28.01.2026 by the I Additional Senior Civil Judge and JMFC, Chitradurga, the petitioners before this Court are the defendants in the suit.

2. The respondent-plaintiff has filed a suit seeking permanent injunction restraining the petitioners from interfering with the construction of the compound wall. Along with the suit, they have filed an application seeking an ad-interim injunction, which was allowed. The defendants carried the matter in appeal, and the appeal was dismissed, confirming the order passed on the IAs. Aggrieved by the same, the defendants filed W.P. No.306/2023 before this Court, which was disposed of by order dated 19.07.2024, whereby this Court modified the order passed by the Courts below to the extent that the parties shall maintain status quo until further orders by the Trial Court in respect of the property concerned. However, the respondent was permitted to fence the property concerned without tampering with the already existing structures on the property.



NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

3. Thereafter, an application was filed seeking police protection, which was questioned before this Court by filing W.P. No. 23891/2024. By order dated 05.09.2024, the said writ petition was disposed of, wherein this Court observed that the learned counsel for respondent No. 1-plaintiff submitted that he would advise his client to withdraw the application filed under Section 151 of the CPC seeking police protection. In view of the submissions made by the learned Senior Counsel for the petitioner and the learned counsel for respondent No. 1-plaintiff, this Court observed that nothing further survived for consideration in the said petition. It was made clear that respondent No. 1-plaintiff shall not press the application seeking police protection. Since the petitioner-defendants had not raised any objection for putting up of a fence in terms of the directions issued by this Court, the matter was accordingly disposed of.

4. Thereafter, the instant application, i.e., IA No.16, was filed seeking police protection for the implementation of the order passed on the IAs. The petitioners-defendants contend that they are not permitting the plaintiffs to fence their



NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

land. By the order impugned in these writ petitions, the Trial Court allowed IA No.16 filed under Section 151 of the CPC and directed the defendants to produce recent photographs of the existing structures on the property. Thereafter, the defendants submitted recent photographs of the existing structures on the property to the Court. The office was directed to issue the necessary intimation to the CPI, Town Police Station, and the Police Sub-Inspector, Town Police Station, for providing the necessary police protection in terms of the order passed on IA No.1, as affirmed by this Court in W.P. No.306/2023.

5. In that regard, the defendants have filed another application, i.e., IA No. 17 under Order XXVI Rule 9 read with Section 151 of the CPC, seeking appointment of a Court Commissioner for local investigation to inspect the old compound wall and gate of the school, which already exist within the defendants' property, and to submit a report to the Court. The said application was rejected by the order impugned, whereby the Trial Court observed that the Court had already allowed the application seeking police protection and, in that regard, directed the defendants to submit recent



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

photographs of the already existing structures on the property. The recent photographs would help the Court monitor whether the permission given to the plaintiffs to fence the property has resulted in tampering with the already existing structures on the property or not. For such purpose, appointment of a separate Court Commissioner for local investigation is not necessary. Instead, as per the directions of the Court, the defendants can file recent digital photographs to show the Court the existence of the old compound wall, and after construction of the compound wall by the plaintiffs, if the plaintiffs tamper with any existing structure, the photographs taken at a later stage can be compared. Hence, appointing a Court Commissioner would consume more time than taking recent digital photographs and videos of the existing structures. For all these reasons, the Trial Court found no merit in the application and accordingly dismissed the same. Aggrieved thereby, the defendants are before this Court, questioning both the orders, i.e., the order granting police protection and the order refusing to appoint a Court Commissioner.



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

6. Learned Senior Counsel representing the counsel for the petitioners submits that, it is the specific case of the defendants that there is no property in existence as alleged by the plaintiffs and that, under the guise of fencing, they are trespassing into the defendants' property and trying to put up construction. If a Court Commissioner is appointed, the Court would be able to understand the dispute as well as the acts the plaintiffs seek to carry out under the guise of the order passed by the Court. The Trial Court, without considering the application in its proper perspective, has simply dismissed it, stating that the photographs submitted would be sufficient. Even the Court has not taken the photographs and has merely directed the petitioners-defendants to file them before the Registry.

7. It is submitted that this would create unnecessary confusion, particularly in the facts and circumstances of the case, where the defendants stating that there is no such property in existence, and if this order is executed, it would cause a lot of hardship to the defendants. All these aspects have not been considered by the Court. It is further submitted



NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

that the confusion created by passing such orders needs to be clarified by this Court in the substantial interest of justice.

8. Learned Senior Counsel representing the counsel for the respondents submits that the plaintiffs had the benefit of injunction granted by the Trial Court, which has been affirmed by the Appellate Court. Before this Court, the defendants themselves have stated that they have no objection if the plaintiffs fence their land. On that basis, the petition was disposed of. Even in an application arising of an order for police protection before this Court, the same concession was made that the defendants have no objection if the plaintiffs fence their property. It is submitted that the plaintiffs-respondents are not encroaching upon any land belonging to the petitioners-defendants and that they want to fence the land belonging to the plaintiffs. In both applications, the Court has permitted the defendants to place all the digital photographs before the Court, so that, once the defendants complete fencing the property, they would be able to demonstrate before the Court whether the plaintiffs have violated any of the orders passed by the Court. Despite this, the petitioners have come before this



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

Court. It is submitted that, with the sole intention of preventing the plaintiffs from fencing the property, the defendants are filing one application after another, and, therefore, the writ petitions are liable to be dismissed.

9. Having heard the learned Senior Counsel on either side, perused the material on record. The suit itself is filed seeking the relief of injunction restraining the defendants from interfering with the construction of the compound wall. The defendants have filed an IA seeking the very same relief, which was granted by the Trial Court and affirmed by the Appellate Court. However, before this Court, in a way, the said order was affirmed in the writ petition, wherein the plaintiffs were permitted to fence their property, apart from that, the parties were directed to maintain *status quo*. This Court has perused the two orders passed by the Co-ordinate Bench of this Court. In both orders, the submission made before the Court is that they have no objection if the plaintiffs fence their property without interfering with the defendants' existing structures. According to the plaintiffs, because of resistance from the defendants, they filed an application seeking police protection.



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

The Trial Court has rightly considered the said application and granted police protection when there was obstruction for the implementation of the order, the Court is bound to grant police protection.

10. Then, coming to the application for the appointment of a Court Commissioner, even in that case, the Trial Court has passed a reasoned order stating that if all the digital photographs and videographs are placed before the Court, no prejudice would be caused to the defendants, as the defendants would be able to demonstrate before the Court, there is any violation of the orders of the Trial Court or of this Court. If the plaintiffs have made any construction in violation of the orders passed by the Court, the Court would take appropriate action for such disobedience of the orders passed by the Court. In those circumstances, when the Trial Court has balanced the interests of both the parties, this Court is of the view that there is no infirmity with the order passed by the Trial Court, seeking interference by this Court. Hence, this Court is passing the following:



CNR: KAHC010092532026

NC: 2026:KHC:44133
WP No. 4241 of 2026
C/W WP No. 4314 of 2026

ORDER

- i. This Court do not find any reason to interfere with the orders impugned. However, it is made clear that the petitioners, by tomorrow, i.e., 19.08.2026, shall place the digital photographs as well as the videographs before the Registry of the Trial Court and the Trial Court shall send the same to the concerned Police. Thereafter, they shall proceed as per the order passed by the Trial Court.
- ii. As undertaken before this Court by the plaintiffs, they shall strictly adhere to the earlier orders passed by the Co-ordinate Bench of this Court in the writ petition and the submission made before this Court.
- iii. Accordingly, WP Nos. 4241/2026 and 4314 of 2026 are ***disposed of.***
- iv. Pending IAs, if any, shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

SMC
List No.: 1 Sl No.: 6