



CNR: KAHC010099442026

NC: 2026:KHC:36855
MFA No. 1087 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO.1087 OF 2026 (CPC-)

BETWEEN:

M/S GEETANJALI EFFECTIVE
REALTY SOLUTIONS PVT LTD
A PRIVATE LTD COMPANY
HAVING ITS REGISTERED OFFICE
AT NO.10/1, GROUND FLOOR
LAKSHMINARAYANA COMPLEX
PALACE ROAD, BENGALURU-560 052
REP.BY ITS DIRECTOR
MR.P ASHWIN PAI

...APPELLANT

(BY SRI. CHANDAN K., ADVOCATE)

AND:

1. SRI A PRASAD
S/O LATE L ANJANAPPA
AGED ABOUT 67 YEARS,
2. SRI.PASCHIM PRASAD,
S/O A PRASAD,
AGED ABOUT 32 YEARS
BOTH 1 & 2 ARE R/AT
NO.389, 1ST FLOOR, 13TH CROSS
SADASHIVNAGAR
BENGALURU - 560 080
3. M/S K.S. BUILDERS,
A PARTNERSHIP FIRM


Digitally signed
by
GAVRIBIDANUR
SUBRAMANYA
GUPTA
SREENATH
Location: HIGH
COURT OF
KARNATAKA



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HAVING ITS OFFICE AT NO. 64
MARUTHI PLAZA, DR.D.V.G ROAD
BASAVANAGUDI - 560 004
REP. BY ITS PARTNERS
LA SATHISH AND K V KUMAR.

4. L A SATHISH,
S/O ANANTHA PADMANABHA SHETTY
AGED ABOUT 57 YEARS
PARTNER AT K.S. BUILDERS
NO.64, MARUTHI PLAZA
DR.D.V.G ROAD, BASAVANAGUDI
BENGALURU-560 004.
ALSO AT ABHAYA ASTHA,
NO. 1863, 32ND CROSS
10TH MAIN, BSK, 2ND STAGE
BENGALURU-560 070.
5. K V KUMAR,
S/O M KRISHNAPPA
AGED ABOUT 59 YEARS
PARTNER AT K.S. BUILDERS
NO.64, MARUTHI PLAZA
DR.D.V.G ROAD, BASAVANAGUDI
BENGALURU-560 004.
ALSO AT NO.123/24, 3RD CROSS
HMT LAYOUT, MATHIKERE
BENGALURU-560 054.
6. SMT.ANURADHA
D/O CHIKKASONNAPPA
AGED ABOUT 56 YEARS
W/O K V KUMAR
NO.123/24, 3RD CROSS
HMT LAYOUT, MATHIKERE
BENGALURU-560 054

...RESPONDENTS

(BY SRI. L.M.CHIDANANDAYYA., ADVOCATE FOR R1 & R2;
NOTICE TO R3 TO R6 IS DISPENSED WITH V.O.D 10.06.2026)



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THIS MFA IS FILED U/S 43 RULE 1(R) OF CPC, AGAINST THE ORDER DATED 24.04.2025 PASSED ON I.A.NOS. 1 AND 2 IN OS.NO.20/2025 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, CHIKKABALLAPURA, ALLOWING THE I.A.NO.1 AND 2 FILED UNDER ORDER 39 RULE 1 AND 2 OF CPC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

This appeal is preferred by defendant No.5 in O.S.No.20/2025 seeking to set aside the impugned order dated 24.04.2025 passed on I.A.Nos.1 and 2 by the learned II Additional Senior Civil Judge and JMFC, Chikkaballapura and consequently, to dismiss the applications-I.A.Nos.1 and 2, wherein the trial Court has granted temporary injunction as against defendant No.5.

2. Respondent Nos.1 and 2 are plaintiffs and respondent Nos.3 to 6 are defendant Nos.1 to 4.

3. For the sake of brevity, parties shall be referred to as per the status before the trial Court as plaintiffs and defendants.



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4. The plaintiffs filed a suit against the defendants for the relief of declaration, for cancellation of the registered agreement of sale dated 24.03.2017 to be a notional document and to cancel the registered Power of Attorney dated 24.03.2017 executed by plaintiffs in favour of defendant No.4, for permanent injunction, for cancellation of agreement of sale executed by defendant No.4 in favour of defendant No.5 dated 31.01.2024 and for other consequential reliefs.

5. Along with the suit, the plaintiffs filed an application under Order XXXIX Rule 1 and 2 of CPC for temporary injunction restraining defendant No.4 from interfering with the peaceful possession and enjoyment of the plaintiffs over the suit schedule property in I.A.No.1 and to restrain the defendants from alienating the suit schedule property in I.A.No.2. On the said two applications, the trial Court issued notice to the defendants and upon appearance of defendant Nos.2 to 4, filed their statement of objections. The applications came to be heard and allowed by granting an order of temporary injunction in favour of plaintiffs restraining the defendants from alienating the suit schedule properties and



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also dispossessing the plaintiffs from the suit schedule properties, till the disposal of the suit.

6. It is this order that is questioned by defendant No.5, who is the appellant herein, in this appeal.

7. It is a vehement contention of learned counsel Sri Chandan.K., appearing for the appellant that the learned trial Judge has committed a serious error, illegality and perversity in allowing the applications without even issuing notice to defendant Nos.1 and 5, whereas other defendants were issued notice, appeared and contested the matter. The trial Court has proceeded to pass orders in the absence of defendant No.5. It is a primary contention of learned counsel that defendant No.5 has entered into a registered agreement of sale with defendant No.4 on 31.01.2024 for total sale consideration of Rs.19 Crores and odd, out of which Rs.4 Crores is paid to defendant No.4 and the same is acknowledged in the agreement of Sale. The balance amount is required to be paid. This being the state of affairs, the present suit came to be filed by the plaintiffs against the defendants for the relief herein above stated on 08.01.2025. Learned counsel further contends



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that the trial Court has committed perversity and illegality in not issuing notice to defendant No.5 and has proceeded to pass orders on the applications-I.A.Nos.1 and 2 filed under Order XXXIX Rule 1 and 2 and in said order, the trial Court has restrained defendant No.5 including other defendants from interfering with the plaintiffs' peaceful possession and enjoyment of the properties, alienating the suit schedule properties and by dispossessing the plaintiffs from the suit schedule properties.

8. Learned counsel for the appellant produces a copy of the order sheet of the trial Court by way of a memo, in which the operative portion of the order of grant of injunction is dated 24.04.2025 and pursuant to the said order, on the same day, an order is passed in the following manner:

"Issue suit summons to defendant Nos.1 and 5, returnable by 16.06.2025."

9. Therefore, he contends that admittedly the notice and summons were not served to defendant No.5, which is also clearly reflected in the order sheet dated 25.02.2025. Under the circumstances, the trial Court could not have granted an



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order after having issued notice to the other defendants, but not notifying defendant No.5 and it would be a clear violation of the principles of natural justice and the procedure known to law while deciding the applications as contemplated under Order XXXIX Rule 3, when notices were issued to other defendants. On these grounds, he seeks to set aside the impugned order and consequently, allow the appeal.

10. *Per contra*, learned counsel Sri L.M.Chidanandayya appearing for respondent Nos.1 and 2-plaintiffs vehemently contends that the learned trial Judge has issued notice to defendant Nos.2 to 4, who have been served, filed statement of objections and contested the applications. Upon hearing the said counsel, the impugned order is passed. It is contended that the grievance of the plaintiffs was with regard to the agreement of sale executed by the plaintiffs in favour of defendant No.4 and so also the General Power of Attorney executed by the plaintiffs in favour of defendant No.4, which have been misused and misutilised. However, the plaintiffs have also made other prayers so as to affect defendant No.5 in the suit and also in the applications. He fairly admits to the fact



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that the notice was not served to defendant No.1 and 5, but since defendant No.5 has approached this Court, it may not affect the other defendants so far as the impugned order is concerned, as they are not before this Court challenging the said order. Therefore, he seeks to sustain the order as against the other defendants and he does not have any objection in the appeal being allowed and matter being sent back to the learned trial Judge for consideration of the applications by providing an opportunity to defendant No.5. On these grounds, he seeks to dismiss the appeal.

11. I have heard learned counsel for the appellants and learned counsel for the respondents.

12. The point that arises for consideration before this Court is:

1. *Whether the appellant has made out any good ground or cogent reason to interfere with the impugned order and if so, what order?*

13. Apparently, there is no dispute to the fact that the suit is filed by the plaintiffs against all defendants including the



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appellant herein, who is defendant No.5. There are certain reliefs claimed even against defendant No.5 in the main suit so also in the applications. It is also seen from the records that the impugned order is passed on 24.04.2025. The notice to defendant No.5 has not been served. Even as on date of 25.02.2025, defendant Nos.1 and 3 to 5 are shown to be unserved and order sheet does not reflect any service of notice to defendant No.5. The fact remains that as on the date of passing the impugned order on 24.04.2025, the trial Court has ordered issuance of suit summons to defendant Nos.1 and 5, returnable by 16.06.2025.

14. It is apparently evident that the impugned order is passed in the absence of defendant Nos.1 and 5. Defendant No.5 has approached this Court by way of challenge to the applications. Defendant No.1 is not before the Court. Learned counsel has sought for dispensation of notice to defendant No.1, which is allowed at his risk.

15. Apparently, when the application under Order XXXIX Rule 1 and 2 is considered, it is a discretion of the Court to either grant an ad-interim order of temporary injunction



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without issuance of notice to the defendants or pass an ad-interim ex-parte order, however, in compliance with Order XXXIX Rule 3, if it comes to a conclusion that by delay, the grant of injunction will be frustrated and the same is not done in the present case. The trial Court has found it fit to issue notice, hear the defendants and thereafter, pass suitable orders on the said applications, which is the normal course and the first option is exercised by the trial Court. However, before service of notice to defendant No.5 in the manner known to law, the trial Court has decided the applications and passed an temporary injunction order binding defendant No.5 by the said order, which in my humble opinion may not be the correct procedure of law and is opposed to the principles of natural justice. The same would not be sustainable as against the appellant-defendant No.5. Therefore, on the sole ground of notice not being served to defendant No.5 and he not being heard before passing the said impugned order, the impugned order cannot be binding as against defendant No.5.

16. The argument that the said impugned order should be set aside may not be sustainable for the reason that the



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other defendants, who have appeared and participated in the suit, are not before this Court to pass any order against them. Therefore, considering the plea and accepting the submission, which has got sufficient force on behalf of the appellant-defendant No.5, these applications will have to be reconsidered once again so far as defendant No.5 is concerned.

17. Accordingly, I pass the following:

ORDER

- i) The appeal is allowed.
- ii) The impugned order dated 24.04.2025 as against Appellant/Defendant No.5 is Set aside.
- iii) The impugned order dated 24.04.2025 passed on I.A.Nos.1 and 2 by the learned trial Judge is restricted so far as defendant Nos.2 to 4.
- iv) Matter is remitted to the trial Court to reconsider the application so far as defendant No.5 is concerned.
- v) It is open to defendant No.5 to contest the applications. The trial Court shall hear defendant No.5 and pass suitable orders.
- vi) In case respondent Nos.1 and 2-plaintiffs wants to press any such application or seek



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any order as against defendant No.5, all contentions of defendant No.5 are kept open.

- vii) This Court has not expressed any opinion so far as regards defendant No.5 or for that matter, on the merits of the applications so far as regards defendant Nos.2 to 4 are concerned, as they are not before this Court.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

VM
List No.: 1 SI No.: 34