



CNR: KAHC010109812026

NC: 2026:KHC:47859
WP No. 4651 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 4651 OF 2026 (GM-CPC)

BETWEEN:

SRI NARASIMHAIAH
S/O NARASHIVAIAH @ APPAIAH,
AGED ABOUT 88 YEARS,
(SENIOR CITIZEN BENEFIT NOT CLAIMED)
RESIDING AT SHANTHAPURA VILLAGE,
SOLUR HOBLI, MAGADI TALUK,
RAMANAGARA DISTRICT - 562127.

...PETITIONER

(BY SRI. SHASHANK K.R., ADVOCATE
SRI.AMRUTHESH C., ADVOCATE)

AND:

SRI JAVARAYIGOWDA M
S/O MAYIGEGOWDA,
AGED ABOUT 56 YEARS,
RESIDING AT NO.14,
3RD MAIN ROAD,
SHANKARAPURA,
BENGALURU - 560096.

...RESPONDENT

(BY SRI. SATHISH M. DODDAMANI, SENIOR COUNSEL FOR
SRI. PRITHVI N RAJ., ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 226 AND 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASHING THE ORDER
DATED 29.01.2026 PASSED ON I.A. NO.1 IN O.S. NO. 40/2026
ON THE FILE OF II ADDITIONAL CIVIL JUDGE AND JMFC AT
MAGADI, PRODUCED AS ANNEXURE - F.

Digitally
signed by
SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA



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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The petitioner is before this Court aggrieved by the order dated 29.01.2026 passed in O.A.No.40/2026 by the II Addl. Civil Judge and JMFC, Magadi, Ramanagara.

2. The petitioner has filed a suit for permanent injunction and, in addition, has filed IA No. 1 under Order XXXIX Rule 1 and 2 of the CPC, praying for an ad interim ex parte temporary injunction. It is submitted that when an application is filed seeking an ad interim injunction, the Court has to pass an order on the merits of the matter and cannot issue suit summons. Aggrieved thereby, he has come before this Court.

3. The Co-ordinate Bench of this Court, on 22.03.2026, has granted an order of status quo. Now, the respondents have filed the vacate petition.



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4. Learned senior counsel representing learned counsel for the respondent submits that, in the light of the order passed by the Co-ordinate bench of this Court in **Smt. Shivamma Vs. Smt. Honnamma and another dated 12.03.2026**, the writ petition is not maintainable and they have to file an appeal under Order XLIII Rule 1(R) of the CPC.

5. Be that as it may, without going into the legal position and other merits of the matter, when an application is filed seeking an ad interim injunction, the Court has to consider the same in accordance with law, based on the material. If the plaintiff is not entitled for an ad interim injunction, the Court has to pass orders. The aggrieved party can avail the remedy available to them, the Court cannot issue suit summons in this manner.

6. A Co-ordinate Bench of this Court in **Dhalitha Vividha GramodyogaKaigarikaSahakara Sanga Niyamitha (R) Vs Samatha Sainika Dal SSD**, arising out of **W.P.No.35488/2025(GM-CPC)dated 09.12.2025**, has observed as follows:



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"6. This Court does not find any need or necessity to issue notice to the respondent-defendant for the reason that the petitioner is questioning the non-passing of the order on the application in IA.No.1, wherein the trial Court has neither passed any order for grant of an ad interim ex parte order of temporary injunction or for rejection of the same.

7. When an application is filed under Order XXXIX Rules 1 and 2 of CPC by the plaintiff along with the plaint seeking an ad interim ex parte order of temporary injunction, it becomes the duty and obligation of the trial Court to consider the same and pass suitable orders either granting or rejecting the ad interim ex parte order of temporary injunction. This Court in the case of Karnataka State Cricket Association vs. Mr.Shashidhara A.V. in WP.No.33725/2025 [Decided on 17.11.2025] has made certain observations and guidelines as to how the trial Court has to deal with an application filed under Order XXXIX Rules 1 and 2 of CPC. It is not optional for the trial Court to merely issue notice to the defendant before passing an interim order of temporary injunction against the defendant.

8. The trial Court will also have to consider judgments of the Hon'ble Apex Court in the cases of Shiv Kumar Chadha vs. Municipal Corporation of Delhi and others reported in (1993)3 SCC 161, Time City Infrastructure and Housing Limited Lucknow vs. State of U.P. and Others reported in 2025 SCC Online SC 1674 and the judgment of the Coordinate Bench of this Court in the case of Vedant Fashions Pvt. Ltd., vs. Smt.Rajul Devi reported in 2014 SCC OnLine Kar 7191 while deciding



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the application under Order XXXIX Rules 1 and 2 of CPC.

9. It is brought to the notice of this Court that notice is yet to be served on the defendant. Therefore, it would be appropriate for this Court to direct the trial Court to decide the application either granting or rejecting an ad interim ex parte order of temporary injunction by providing proper reasons."

7. Having heard the learned counsel for the petitioner, perused the entire material on record. Considering the order passed by the co-ordinate bench of this Court in ***W.P.No.35488/2025(GM-CPC) dated 09.12.2025*** this Court deems it appropriate to pass the following:

ORDER

- i. The writ petition is ***disposed of***, directing the II Addl. Civil Judge and JMFC, Magadi, Ramanagara to dispose of I.A.No.1 on the next date of hearing i.e. on 08.09.2026.
- ii. The trial Court shall hear the matter and decide the application on that day. If it is not possible on that day, it should be completed immediately on the second day.



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- iii. As the petitioner is having the benefit of a status quo order, that shall continue till the orders are passed on I.A.No.1.
- iv. All pending I.As., in the petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

PKN
List No.: 1 Sl No.: 80