



CNR: KAHC010125562023

NC: 2026:KHC:47584  
WP No. 5742 of 2023

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 1<sup>ST</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**

**WRIT PETITION NO. 5742 OF 2023 (GM-CPC)**

**BETWEEN:**

SRI. H. M. MANU  
S/O. SRI MADEGOWDA  
AGED ABOUT 38 YEARS  
R/AT HODIKE HOSAHALLI  
KASABA HOBLI  
CHANNAPATTANA TALUK  
RAMANAGARA DISTRICT

...PETITIONER

(BY SRI. GURU PRASANNA S, ADVOCATE AND  
SMT. PRIYANKA S. ANGADI, ADVOCATE AND  
MS. RACHANA R, ADVOCATE)

**AND:**

1. SRI. MARIGOWDA  
S/O. CHIKKEGOWDA  
AGED ABOUT 67 YEARS  
R/AT H. BASAVAPURA VILLAGE  
HALAGURU HOBLI, MALAVALLI TALUK  
MANDYA - 571 401.
2. SMT. CHIKKATHYAMMA  
W/O. SRI. MARIGOWDA  
AGED ABOUT 60 YEARS  
R/AT H. BASAVAPURA VILLAGE  
HALAGURU HOBLI

Digitally signed  
by  
ANNA PURNA G  
Location: High  
Court of  
Karnataka



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MALAVALLI TALUK  
MANDYA - 571 401.

...RESPONDENTS

(BY SRI. CHIRANTH S.H, ADVOCATE FOR  
SRI. YESHU BABA MISHRA, ADVOCATE FOR C/R2 AND R1)

THIS WP IS FILED UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED  
ORDER DTD 06.02.2023 PASSED IN MA NO.19/2022 BEFORE  
THE SENIOR CIVIL JUDGE, JMFC MALAVALLI (ANNX-A) WHERE  
BY THE 1ST APPELLATE COURT CONFIRMED THE ORDER DTD  
27.09.2022 PASSED BY 1ST ADDL. CIVIL JUDGE MALAVALLI  
MANDYA ON IA NO.I IN OS 290/22 (ANNX-B) AND  
CONSEQUENTLY ALLOW THE MISC APPEAL NO.19/22 AND TO  
GRANT THE INTERIM RELIEF OF PROHIBITORY INJUNCTION AS  
PRAYED IN IA I IN OS 290/22 ON THE FILE OF 1ST ADDL.  
CIVIL JUDGE MALAVALLI MANDYA DIST (ANNX-L) AND ETC.,

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



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

**ORAL ORDER**

This writ petition is filed challenging the order dated 27.09.2022 passed on I.A.No.1 in O.S.No.290/2022 by the I Additional Civil Judge, Malavalli, Mandya (hereinafter referred to as the 'trial Court' for short) and the order dated 06.02.2023 passed in M.A.No.19/2022 by the Senior Civil Judge and JMFC Malavalli (hereinafter referred to as the 'appellate Court' for short).

2. Heard Sri Guru Prasanna S., Smt. Priyanka S Angadi and Smt. Rachana R, learned counsels for the petitioner and Sri Chiranth S H., learned counsel appearing on behalf of Sri Yesu Babu R. Mishra, learned counsel for the caveator/respondent No.2 and respondent No.1.

3. The petitioner-plaintiff filed a suit in O.S.No.290/2022 against the respondents herein seeking a judgment and decree of permanent injunction, restraining the defendants from entering the suit schedule



properties or in any way interfering with the peaceful possession and enjoyment of the suit schedule property. In the said suit, the plaintiff filed I.A.No.1 under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC'), seeking an ad-interim ex-parte order of temporary injunction during the pendency of the suit. The said application as well as the suit were opposed by the respondents by filing their written statement and statement of objections to the application. The trial Court, vide order dated 27.09.2022, rejected I.A.No.1 filed by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC. The plaintiff assailed the said order before the appellate Court in M.A.No.19/2022. The appellate Court, vide order dated 06.02.2023, dismissed the appeal, affirming the finding of the trial Court on the application for temporary injunction.

4. It is to be noticed that, the suit filed by the petitioner is for the relief of permanent injunction against the defendants, on the specific assertion that, on



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13.06.2022, the defendants and persons claiming under them tried to interfere with the possession of the plaintiff. In order to substantiate the lawful possession of the plaintiff, the plaintiff has placed reliance on the sale deeds dated 18.09.2017 and 11.01.2018.

5. It is also to be noticed that the plaintiff had purchased property measuring 35 guntas in Survey No.5/1B vide registered sale deed dated 18.09.2017 and also purchased 0.19 guntas in Survey No.3/3 vide registered sale deed dated 11.01.2018. The plaintiff had purchased the said property from one Sri Thammegowda. The plaintiff had produced the mutation extract and RTCs to substantiate that he is the title holder of the property as well as in possession of the property. The said application was opposed by the defendants contending that some of the family members, in collusion with Sri Thammegowda had sold the property, and that a suit for partition in O.S.No.87/2022 is pending, wherein a relief of declaration is sought that the sale deed under which the plaintiff is



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claiming title is not binding on the respondents-defendants. The trial Court, while recording the finding on possession, has observed the aforesaid facts. The trial Court has recorded a clear finding that the property is standing in the name of the plaintiff. However, it has observed that it would be difficult to make out the possession of the plaintiff over the property. In my considered view, the trial Court has committed a grave error in disbelieving the title documents and the relevant revenue documents placed by the plaintiff.

6. It is to be further noticed that, the defendants have not placed any iota of evidence before the trial Court to substantiate that they are in possession of the property. It is the case of the defendants that, the other family members, in collusion, had sold the property and that the defendants are admitting the sale of the property. There was no occasion for the trial Court to disbelieve the title documents and revenue documents placed by the plaintiff. Hence, the finding recorded by the trial Court as well as



the appellate Court on the title as well as possession is perverse and calls for interference.

7. It is also to be noticed that, though the trial Court has come to the conclusion that the plaintiff has placed a title document to substantiate the ownership, it has without any justifiable reason, recorded a finding that the plaintiff has failed to establish possession. In my considered view, the material placed on record is sufficient to come to a conclusion that, the plaintiff has a *prima facie* case for grant of temporary injunction during the pendency of the said suit, as he is the title-holder and his name is entered in the revenue records, which has prescribed value with regard to possession.

8. It is also required to be noticed that the contention of the defendants is that the suit for partition is pending, which clearly establishes that the sale of the property in favour of the plaintiff is admitted by the defendants and that a relief for declaration is sought stating that the sale deed in question is not binding on the



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defendants. Until the said relief is granted in the said suit, the trial Court ought not to have placed reliance on the pendency of the suit while rejecting the application.

Hence, I proceed to pass the following:

**ORDER**

- i) The writ petition is ***allowed***.
- ii) The impugned order dated 27.09.2022 passed on I.A.No.1 in O.S.No.290/2022 by the I Additional Civil Judge, Malavalli, Mandya and the order dated 06.02.2023 passed in M.A.No.19/2022 by the Senior Civil Judge and JMFC Malavalli are hereby set aside.
- iii) Consequently, I.A.No.1 filed by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC in O.S.No.290/2022 is allowed.
- iv) The defendants in the suit are restrained from interfering with the peaceful



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possession and enjoyment of the suit  
schedule property by the petitioner-plaintiff  
during the pendency of the suit.

No orders as to costs.

**Sd/-**  
**(VIJAYKUMAR A. PATIL)**  
**JUDGE**

SHS  
List No.: 1 Sl No.: 0