



CNR: KAHC010166272021

NC: 2026:KHC:47090
WP No. 8120 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 8120 OF 2021 (GM-CPC)

BETWEEN:

M/S SKF BOILERS AND DRIERS PRIVATE LIMITED
A COMPANY INCORPORATED UNDER
PROVISIONS OF COMPANIES ACT 1956
HAVING ITS REG. OFFICE AT DOOR NO.3-129,
BNNADKA, PADUMARNADU VILLAE,
MANGALORE TALUK, D.K. - 574 213,
REP. BY ITS HR MANGER,
VIZ. VIVEK VALLABH,
S/O SRI MANOHAR TULUJARAM,
AGED ABOUT 49 YEARS.

...PETITIONER

(BY SRI. ARUNA SHYAM M., SENIOR COUNSEL FOR
SRI. SUYOG HERELE E., ADVOCATE)

AND:

1. MR. RAMAKRISHNA ACHAR
SON OF LATE SHEENA ACHRYA,
AGED ABOUT 56 YEARS,
2. MR PRAJWAL ACHAR
SON OF MR RAMAKRISHNA ACHAR,
AGED ABOUT 25 YEARS,
3. MR THEJAS ACHAR
SON OF MR RAMAKRISHNA ACHR,
AGD ABOUT 23 YERS,

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



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ALL ARE RESIDING AT 'SHRI BHAVANI',
ALANGAR, MARPADY VILLAGE,
MOODBIDRI TALUK D.K. - 574 227.

4. MR RAMDAS PRABHU
AGED ABOUT 49 YEARS,
S/O MANJUNATH PRABHU,
DIRECTOR SKF ELIXER INDIA PVT.LTD.
BENNADKA, MOODABIDRI,
MANGALORE - 574 227.

...RESPONDENTS

(BY SRI. RAGHAVENDRA SHENOY M., ADVOCATE FOR R1 TO R3
VIDE ORDER DATED 02.06.2021,
NOTICE TO R4 IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO-SET ASIDE THE ORDER
DATED 03.04.2021 PASSED BY THE LEARNED III ADDL.
SENIOR CIVIL JUDGE AND JMFC MANGALORE, DK IN
MA.NO.7/2021 ALONG WITH CONSEQUENTIAL RELIEFS VIDE
ANNEXURE-A.

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 orders dated 03.04.2021 and 19.02.2021 passed in M.A.No.7/2021 by the III Additional Senior Civil Judge and JMFC, Mangalore, Dakshina Kannada (Itinerate Court at Moodabidri) (hereinafter referred to as the 'appellate Court' for short).

2. Sri Aruna Shyam M., learned Senior Counsel appearing on behalf of Sri Suyog Herele E., learned counsel for the petitioner submits that, the petitioner filed a suit in O.S.No.260/2019 seeking a declaration and permanent prohibitory injunction. In the said suit, the petitioner filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure (for short, 'CPC') seeking an ad-interim order of temporary injunction. The trial Court, vide order dated 07.01.2021, allowed the said application and restrained the defendants from trespassing into any portion of the plaint 'A' and 'B'



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schedule properties or damaging the remaining compound wall and buildings and further permitted the plaintiff to restore and reconstruct the dismantled compound wall, portion of the wall of the dining room and rest room of the plaintiff.

3. Thereafter, the defendants preferred an appeal in M.A.No.7/2021 and the appellate Court, by the impugned order dated 03.04.2021, reversed the order of the trial Court. This Court, vide order dated 21.04.2021, permitted the petitioner to put barbed wire fencing instead of the compound wall and the said order is in force. It is further submitted that, instead of recording a finding with regard to the correctness of the impugned order, it would be appropriate to direct the trial Court to dispose of the suit on merits as the interim order granted has been in force for more than five years.

4. *Per contra*, Sri Raghavendra Shenoy M., learned counsel for respondent Nos.1 to 3 supports the impugned order and submits that, pursuant to the interim order, it



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appears that the plaintiff has put up barbed wire fencing and the interest of the respondents is protected. It is submitted that, the suit is for a declaration that the plaintiff acquired the plaint 'B' schedule property by way of adverse possession and, unless the said relief is considered and granted, the question of granting any prohibitory injunction at the interlocutory stage may not be proper. Considering the said aspect, the appellate Court has rightly interfered with the impugned order. It is submitted that, respondent No.1 has also filed a suit in O.S.No.245/2019 seeking the relief of permanent injunction restraining one of the directors from interfering with the possession of the property. Hence, he seeks dismissal of the petition.

5. I have heard the arguments on both sides and perused the material available on record.

6. The petitioner filed a suit in O.S.No.260/2019 seeking the relief of declaration that the plaintiff-company



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had perfected and acquired title to the plaint 'B' schedule property by way of adverse possession and the relief of permanent prohibitory injunction restraining the defendants from trespassing into any portion of the plaint 'A' and 'B' schedule properties or damaging the compound wall, buildings or any other valuables situated in the plaint 'A' and 'B' schedule properties. In the said suit, the plaintiff filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC seeking an ad-interim order of temporary injunction, which came to be allowed vide order dated 07.01.2021 by restraining the defendants from trespassing into any portion of the plaint 'A' and 'B' schedule properties or damaging the remaining compound wall, buildings or any other valuables situated in the plaint 'A' and 'B' schedule properties or committing any waste or causing any damage or in any other manner interfering with the peaceful possession and enjoyment of the plaint 'A' and 'B' schedule properties till the disposal of the suit. The trial Court further permitted the plaintiff to restore



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and reconstruct the dismantled compound wall, portion of the wall of the dining room and rest room of the plaintiff. The respondents assailed the said order before the appellate Court in M.A.No.7/2021. The appellate Court, by the impugned order dated 03.04.2021, reversed the order of the trial Court granting temporary injunction.

7. It is to be noticed that the suit is of the year 2019 and the trial Court is required to consider the rival contentions on their merits. This Court, vide order dated 21.04.2021, passed the following order:

*"Issue emergent notice; steps need not be taken since respondents have entered caveat through their counsel Sri K. Chandranath Ariga; Petitioners are permitted to put barbed wire fencing, however, no compound wall shall be erected till next date of hearing.
Call this matter in the first week of June, 2021."*

8. It is to be noticed that the aforesaid order is in force and, pursuant to the said order, the plaintiff claims to have fenced the property by putting up barbed wire as permitted by this Court. Considering the aforesaid



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submission and taking note of the interim order granted in the year 2021, I am of the view that, instead of recording a finding on the correctness of the impugned order, it would be appropriate to direct the trial Court to dispose of the suit as expeditiously as possible by continuing the interim order passed by this Court during the pendency of the suit. Hence, I proceed to pass the following:

ORDER

- i) The writ petition is ***disposed of***.
- ii) The interim order granted by this Court on 21.04.2021 shall be in force till disposal of the suit.
- iii) It is made clear that this Court has not expressed any opinion on the merits of the case and the trial Court shall consider the suit on merits in accordance with law and



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dispose of the same as expeditiously as possible.

No order as to costs.

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

SHS
List No.: 1 Sl No.: 21