



CNR: KAHC010175402026

NC: 2026:KHC:36666
WP No. 7995 of 2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 7995 OF 2026 (GM-CPC)

BETWEEN:

1. SRI N KEMPAIAH
S/O. LATE SRI. NANJEGOWDA
SINCE DECEASED BY HIS LRS,
SMT. M. BHAGYALAKSHMI.
W/O. LATE SRI. N. KEMPAIAH,
AGED ABOUT 69 YEARS,

2. SRI. K.B. DURGAPRASAD,
S/O. LATE SRI. N. KEMPAIAH,
AGED ABOUT 46 YEARS,

3. SMT. K.B. SUPRIYA,
W/O. SRI. RAMESH L.,
D/O. LATE SRI. N. KEMPAIAH,
AGED ABOUT 43 YEARS,

ALL ARE R/AT NO.43,
1ST MAIN, SARASWATHINAGAR,
VIJAYANAGAR,
BENGALURU - 560 040

...PETITIONERS

(BY SRI. R.B.SADASIVAPPA, ADVOCATE)

AND:

1. SRI A.V.SRINIVAS
S/O. LATE SRI. A.V. VENKATARAMANA SHETTY,
SINCE DECEASED BY HIS LRS,
SMT. M. KALPANA,

Digitally
signed by
SUVARNA T
Location:
HIGH
COURT OF
KARNATAKA



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W/O. LATE SRI. A.V. SRINIVAS,
AGED ABOUT 55 YEARS

2. SRI. A.S. PUNEET KUMAR.
S/O. LATE SRI. A.V. SRINIVAS.
AGED ABOUT 29 YEARS.

3. SRI. A.S. SUNIL KUMAR,
S/O. LATE SRI. A.V. SRINIVAS.
AGED ABOUT 26 YEARS

R1 TO R3 ARE R/AT NO.26.
KAPASHREE NILAYA, 1ST MAIN,
L.V. ENCLAVE, ABBIGERE,
BENGALURU - 560 090

4. SRI. A.V. SOMASHEKAR @ SOMASUNDAR,
S/O. LATE SRI. A.V. VENKATARAMANA SETTY
AGED ABOUT 50 YEARS

5. SRI. A.V. PRAKASH,
S/O. LATE SRI. A.V. VENKATARAMANA SETTY
AGED ABOUT 46 YEARS,

6. SRI. VENKATARAMANA SETTY.
S/O. LATE SRI. KARRI SETTY
AGED ABOUT 68 YEARS,

7. SRI. NARAYANA SETTY.
S/O. LATE SRI. KARRI SETTY
AGED ABOUT 63 YEARS,

8. SRI. RAGHU,
S/O. SRI. VENKATARAMANA SETTY
AGED ABOUT 40 YEARS,

9. SRI. GIRISH,
S/O. SRI. VENKATARAMANA SETTY
AGED ABOUT 38 YEARS,



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R4 TO R9 ARE R/AT
ANAKANAHALLI, KILANCHA HOBLI,
RAMANAGARA, BENGALURU SOUTH DIST.
BENGALURU-562 159

10. SRI. SHANKAR,
S/O. SRI. NAGARAJ
AGED ABOUT 38 YEARS,
R/AT BANIKUPPE, KILANCHA HOBLI,
RAMANAGARA, BENGALURU SOUTH DIST.
BENGALURU-562 159.

...RESPONDENTS

(BY SRI.VINAYAKA S PANDIT, ADVOCATE FOR R1, R3 TO R5
R6, R7 AND R10 ARE SERVED
R2 AND R8 DEEMED SERVICE V/O/D: 08/06/2026)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
IMPUGNED ORDER DATED: 03/02/2026 PASSED BY THE CIVIL
JUDGE AND JMFC AT RAMANAGARA ON I.A. NO.1 IN EXE. PET.
NO.43/2025 AND PERMIT THE PETITIONER TO PUT UP THE
COMPOUND WALL TO THEIR LAND (I.E., SUIT LAND) PENDING
DISPOSAL OF THE ABOVE WRIT PETITION.

THIS WRIT PETITION HAVING BEEN HEARD AND
RESERVED ON 08.06.2026, COMING ON FOR
PRONOUNCEMENT OF ORDER THIS DAY, THE COURT
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



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CAV ORDER

Aggrieved by the order passed in I.A.No.1 in Ex.No.43/2025 dated 03.02.2026 by the Additional Civil Judge and JMFC, Ramanagara, the petitioners who are the legal representatives of the Decree Holder are before this Court.

2. The facts of the case are that one Sri.N.Kempaiah filed a suit for injunction in O.S.No.124/2018 before the Additional Civil Judge and JMFC, Ramanagara against the respondents and the same was decreed on 03.08.2020. Against the said judgment and decree, the respondents filed R.A.No.22/2020 before the Additional Senior Civil Judge, Ramanagara and the said appeal was dismissed by order dated 27.05.2021. Against the dismissal of R.A.No.22/2020, the respondents filed RSA.No.2058/2021 before this Court and thereafter, a memo was filed by the respondents for withdrawal of the RSA and the same was allowed. It is the case that Sri.N.Kempaiah expired on 19.09.2024 after the disposal of the RSA and thereafter, the legal heirs had filed the execution petition and also filed an I.A. under Section 151 of CPC seeking police protection to put up the compound wall/fencing to protect their possession of the



decretal property, and the said application came to be dismissed.

3. The respondents/Judgment Debtors filed their objections and stated that the instant petition filed by the Decree Holders is not maintainable either in law or on facts and deserves to be dismissed in limine. It is further contended that Sri.N.Kempaiah who is the husband of the Decree Holder No.1(a) and father of Decree Holder No.1(b) and (c) had filed O.S.No.124/2018 against the original defendants namely one Sri.A.V.Srinivas and after his death, his legal heirs were brought on record. The Judgment Debtor Nos.4 to 8 are arrayed as parties to the present proceedings and are not parties to the decree passed by the trial Court in O.S.No.124/2018. It is their case that the relief sought in the present proceedings is barred by jurisdiction and beyond the scope of execution proceedings.

4. The trial Court by the order impugned had dismissed I.A.No.1 and, while dismissing the application, observed that the Decree Holders have not placed substantial materials before this Court as observed by the High Court, to extend the



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police aid to the Decree Holders in violation of the permanent injunction granted by judgment and decree in O.S.No.124/2018 dated 03.08.2020. The Court observed that, to enforce the judgment and decree of permanent injunction, when there is a specific procedure of law, the Decree Holders cannot invoke Section 151 of CPC, which confers inherent powers on the Civil Court. When the execution petition is filed under Order XXI Rule 32 of CPC to enforce a decree of permanent injunction by arrest and detention of the Judgment Debtor to civil prison or by attachment of property or both, pending consideration of the said petition, the executive Court cannot direct the police to ensure obedience to the decree in exercise of powers under Section 151 of CPC. The Court also observed that the Decree Holder shall place sufficient materials to show that the Judgment Debtors are willfully disobeying the order of permanent injunction. If the Decree Holders approach the police alleging that in spite of the decree of permanent injunction, the Judgment Debtors are interfering with the movable property and causing legal injury to the Decree Holders, the police can register the case for an offence of



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trespass or attempted trespass and investigate the matter. Therefore, the application filed by the Decree Holders under Section 151 CPC seeking police help is not maintainable. and accordingly, dismissed the application. Aggrieved thereby, the petitioners/Decree Holders are before this Court.

5. Learned counsel appearing for the petitioners submits that the trial Court, without appreciating both factual and legal position, had dismissed the application. The executing Court had failed to note that the execution petition is filed to execute the decree of injunction, since the Judgment Debtors are interfering with the Decree Holders' lawful possession, in spite of suffering the decree before the trial court, first Appellate Court, High Court and the Hon'ble Supreme Court. The Decree Holders have filed the I.A. seeking protection to put up the compound wall to protect the property of the Decree Holders in which admittedly they are in physical possession and there is a decree in their favour and against the Judgment Debtors. It is submitted that the trial Court failed to note that even after the decree, when the Judgment Debtors tried to interfere, the Decree Holders lodged a complaint with the police and the



police did not take any action to protect the interest of the Decree Holder despite the fact that the decree is operating against the Judgment Debtors. It is submitted that the trial Court without appreciating the spirit of Order XXI Rule 32 of CPC and Section 151 of CPC had dismissed the application. It is submitted that the trial Court had failed to note that to punish the Judgment Debtors for the disobedience of the order of permanent injunction, it requires enquiry and not police help to prevent interference when there is a decree in favour of the Decree Holders and against the Judgment Debtors.

6. Learned counsel for the petitioners had relied on the judgment of the Co-ordinate Bench of this Court in case of **Balakrishna K.P. and Another Vs. K.P.Puttaraju and Others** arising out of **WP.No.51712/2019 dated 07.07.2025** on paragraph Nos.13 and 14 which reads thus:

"13. It is clear from the aforesaid enunciation of the law by the Hon'ble Supreme Court that the Court has the power to enforce its order of temporary injunction by providing police aid or police protection, though to be exercised in exceptional circumstances. In the case on hand, the petitioners have placed substantial material before the trial Court and specifically pleaded that the respondents in violation of the temporary injunction order are interfering with their peaceful possession and enjoyment of the suit schedule properties on many occasions. In support of the said



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plea, the petitioners have placed the material to indicate that they have initiated criminal proceedings against the respondents and that they are under investigation. This Court cannot lose sight of the fact that the order dated 28.10.2017 passed by the trial Court on an application filed by the petitioners filed under Order XXXIX Rules 1 & 2 is not altered in the pending appeal in MFA.No.9460/2017. The trial Court has recorded detailed reasons while granting temporary injunction in favour of the petitioners and against the respondents with regard to the possession over the suit schedule property. In violation of the temporary injunction order, if the respondents interfere with the possession as observed by the trial Court, it is the duty of the trial Court to protect such possession by providing necessary police aid to the petitioners against the respondents, who wanted to take the law into their own hands. In my considered view, the trial Court has committed grave error in recording the finding that there are some aberrations of interference and rejected an application for police protection. The trial Court has also come to conclusion that there is a violation of the temporary injunction order by the respondents, when that being so, the trial Court ought to have directed the jurisdictional police to provide help whenever need arises.

14. This Court is conscious of the fact that there cannot be a continuous police aid or police protection to guard the properties of the petitioners. However, the same also cannot be a ground to deny the police aid whenever specific instances of interference by the respondents were brought to the notice of the police by the petitioners. Nonproviding of police protection in such cases would give a ground for the respondents to defy the order of the temporary injunction granted by the Court. The Trial Court, while rejecting the application has further noted that the petitioners have filed an application under Order XXXIX Rule 2A seeking action against the defendants for violation of injunction order, however, in my view, there is no impediment to entertain the application for police protection to seek for enforcement of the temporary injunction order just because the remedy under Order XXXIX Rule 2A is available. It was also brought to notice of the Court that after grant of police protection by this Court in the above proceedings on 16.01.2020 there is no interference from the respondents. That being so, I am of the considered view, that the petitioners have made



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out a case that there are exceptional circumstances in the case on hand and that police aid must be provided to implement the order of temporary injunction order granted by the trial Court whenever need arises. It is needless to observe that the police protection sought and granted by this Court shall remain in force till the temporary injunction order operates in favour of the petitioners."

7. Learned counsel had relied on another judgment in case of ***M.N.Mastansab Vs. Abdul Wahabsab***¹ on the following paragraph:

"The finding which has been recorded by the two Courts below mainly is that the revision petitioner had committed the breach of undertaking which had been given by him to the Court. When proceedings were initiated he took full defence to justify his action, of completing the construction which he had undertaken not to make and the breach of undertaking given to Court. Therefore, it cannot be said to be innocent act of the revision petitioner. This finding which has been recorded by the trial Court is a pure and simple finding of fact. No illegality, or error of jurisdiction has been shown. The only submission that had been made that the inherent powers are there vested in the Court to pass such order as interest of justice requires. The inherent powers of the Court are there, but no doubt the said powers of the Court are to be exercised in the ends and interest of justice to save interest of justice and to prevent abuse of the process of the Court as well as to curb the abuse of the process of the Court. In the present case, I hold that the abuse of the process of the Court had been taken place because of the action of the revision petitioner himself as he had given undertaking and thereafter he had committed the breach. The giving of the undertaking and then committing breach of the undertaking by doing the act which had been undertaken not to be done, is nothing but playing mockery of the Court and its order amounting to even contempt of Court. The dignity and honour of the Court

¹ 2000 (3) KCCR 2361



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has to be maintained, its orders are meant to be followed and adhered. No doubt, the aggrieved party could approach the higher Court challenging those orders by way of appeal. The party could move for modification of the injunction or interim va orders. But, no party is entitled to commit disobedience or breach thereof without seeking modification of the order and particularly the party who has given undertaking to the Court to abstain from doing certain specific things is expected to. honour and to keep pace therewith. But a person giving an undertaking to Court and later violating it plays even fraud with Court and showed disrespect to Courts. After giving the undertaking a person who commits breach of any undertaking in my opinion he commit the grave offence even of Contempt of the Court and to condone such grave offence will be nothing but to give encouragement to the people to do acts in disobedience to the orders of the Court without seeking any modification. In my opinion, as no jurisdictional error has been committed by Courts below and orders cannot be held to suffer from any jurisdictional error. As such, the revision petition is mis-conceived and the two Courts below were justified in rejecting the alleged plea of un-conditional apology as being fake."

8. He relied on the judgment of the Bombay High Court in case of **Nirabai J.Patil Vs. Narayan D.Patil**² on paragraph No.8 which reads thus:

"8. As observed by this Court in the aforesaid judgment, the grant of police aid is an extreme step and therefore order for grant of police help or police assistance cannot be made unless the Court is fully convicted about the existence of grave emergency such as apprehension of violence by the persons against whom the order has been passed. It is very difficult to give exhaustive list of circumstances in which the Court can exercise the said power. However, said power is to be exercised with caution and the said power can be exercised only after the Court is fully convinced of

² AIR 2004 BOMBAY 225



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existence of grave situation warranting exercise of said power."

9. He had relied on the judgment of the Madras High Court in case of ***N.Karpagam and Others vs. P.Deivanaiammal alias Deivathal alias Deivathayee Ammal***³ on paragraph No.7 which reads thus:

"7. In the light of the Division Bench decision holding that Civil Court has power to issue suitable directions to police to implement the orders, and in the light of the fact that injunction was in force from 26-3-2002 and the same was made absolute on 29-11-2002 and in view of the apprehension raised by the petitioner/respondent herein, I am satisfied that the learned Subordinate Judge was perfectly right in ordering police aid. In the light of the said factual details, the petitioners cannot have any valid defence to oppose the said application. I do not find any error or infirmity in the order impugned; consequently, the Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

10. Learned counsel appearing for the respondents submits that the application filed by the petitioners is not maintainable and the trial Court had rightly held that this is not the mode of execution and rightly dismissed the application and there are no grounds to interfere with the order impugned.

³ AIR 2003 MADRAS 219



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11. Having heard the learned counsels on either side, perused the entire material on record. In the light of the submissions made on behalf of both the parties, the issue that calls for consideration before this court is:

"Whether the executing court was justified in dismissing the application under Section 151 of the CPC as not maintainable only on the ground that the Decree Holder has to invoke Order XXI Rule 32 of the CPC ?"

The decree that is granted is one of perpetual injunction. The substantive provision governing execution of such decrees is Order XXI Rule 32 of the CPC. The petitioners have already filed an execution petition under Order XXI Rule 32 of the CPC. They have also filed an application under Section 151 of the CPC seeking police protection, which is an interlocutory application in the pending execution proceedings, subject to the effective implementation of the decree. However, it is not an independent application filed by the Decree Holder. Order XXI Rule No. 32 of the CPC describes the mode of execution of a decree of injunction. The code contains no specific provision authorising the Executing Court to provide police protection. Whenever such assistance becomes necessary to implement the judgment and decree, the inherent jurisdiction under



Section 151 CPC has to be invoked. The inherent powers of the court neither create substantive rights nor supply the provisions of the code. They merely supplement the procedure where the code is silent, enabling the Court to render effective justice and prevent the abuse of its process.

12. The Apex Court, in the case of ***Raja Venkateswarlu Vs Mada Venkata Subbaiah***⁴, has held that an application seeking police protection filed under Section 151 of the CPC cannot be rejected on the ground that it ought to have been filed under Order XXI Rule 32 of the CPC. The Hon'ble Apex Court has observed that whether the executing Court has jurisdiction is a real question. Once execution proceedings are pending, merely mentioning a different provision does not render the application non-maintainable. Therefore, the Apex Court held that quoting the wrong provision is not fatal if jurisdiction otherwise exists.

13. In the present case, the execution petition itself has been filed under Order XXI Rule 32 of the CPC. Therefore, the jurisdiction of the Executing Court to execute the decree is

⁴ (2017) 15 SCC 659



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unquestionable. The application filed under Section 151 of the CPC cannot be treated as an independent execution petition, nor can it be dismissed as not maintainable. The Executing Court failed to appreciate the distinction between the substantive execution proceedings and the ancillary procedural relief sought by the Decree Holder and dismissed the application. In this case, the judgment and decree were passed in the year 2020, and the execution was filed in the year 2025.

14. In the facts and circumstances of the case, when an application is filed seeking police protection, it is not necessarily the case that the Court will simply allow the application to proceed. The Court will still look at the existence of a valid executable decree, the pendency of the execution proceedings, the allegation of obstruction or wilful disobedience by the judgment debtor, and will consider the objections of the judgment debtor. If required, the court will permit both parties to adduce their evidence, record a finding regarding obstruction or wilful disobedience, and then decide whether police assistance is necessary to ensure effective execution. Though the application is filed under Section 151 CPC, the factual



inquiry substantially overlaps with the inquiry contemplated under Order XXI Rule 32 of CPC. The Courts cannot grant the police protection mechanically, and at the same time, the Court cannot refuse to examine the application on merits merely because it has been presented under Section 151 of CPC. The dismissal of the application on the ground of maintainability amounts to refusal to exercise its jurisdiction vested in the Executive Court. The Court exists to enforce decrees and not to render them ineffective by adopting a technical approach. It is settled law that procedural laws are handmaid of justice, and where jurisdiction exists, the Court must decide the application on merits.

15. In the considered opinion of this Court, the Executing Court has failed to consider all these aspects and dismissed the application. In that view of the matter, this court is passing the following:

ORDER

- i. The order dated 03.02.2026 in I.A.No.1 in Ex.No.43/2025 passed by the Additional Civil Judge and JMFC, Ramanagara is ***set aside*** and



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the matter is ***remanded back*** to the trial court.

- ii. The trial Court shall conduct an inquiry as observed by the Court in the preceding paragraphs by giving a reasonable opportunity to both the sides.
- iii. Accordingly, the writ petition is ***Allowed***.
- iv. All I.As. in this petition shall stand closed.

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

MEG/TS