



CNR: KAHC010184822025

NC: 2026:KHC:39965
MFA No. 2017 of 2025
C/W MFA No. 1996 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO.2017 OF 2025 C/W
MISCELLANEOUS FIRST APPEAL NO. 1996 OF 2025 (CPC)
IN MFA No.2017/2025

BETWEEN:

1. SMT. SUMALATHA V.,
D/O. LATE VENKATESH ALIAS
VENKATESH REDDY,
AGED ABOUT 40 YEARS,
2. SMT. VINITHA V.,
D/O. LATE VENKATESH ALIAS
VENKATESH REDDY,
AGED ABOUT 39 YEARS,

BOTH ARE R/AT NO.160,
DODDAMUNIYAPPA REDDY,
KACHARAKANAHALLI,
ST. THOMAS TOWN POST,
BENGALURU - 560 084.

...APPELLANTS

(BY SRI. MALLIKARJUN N.K., ADVOCATE FOR
SRI. SAMPATH A., ADVOCATE)

AND:

1. SMT. V. PADMA,
SINCE DEAD
REP. BY APPELLANTS,
WHO ARE LEGAL REPRESENTATIVES
(CAUSE TITLE AMENDED V/O DT:14.07.2026)

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



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2. SRI R. RAGHUNATHA,
S/O. LATE E.V. RAGHAVULU,
AGED ABOUT 52 YEARS,
R/AT NO.24, M.M.STREET,
BEHIND HOTEL SHANTHI NAGAR,
MADIWALA, BENGALURU - 560 068.
3. SRI. P. BHASKAR NAIDU,
S/O. MUNIAH NAIDU,
AGED ABOUT 77 YEARS,
R/AT NO.113, 11TH MAIN,
4TH 'T' BLOCK, JAYANAGAR,
BENGALURU - 560 011.

...RESPONDENTS

(BY SRI.R.S.RAVI, SENIOR COUNSEL A/W
SRI.VASANTH RAJ, ADVOCATE FOR R2;
R3 - SERVED - UNREPRESENTED)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF CPC,
AGAINST THE ORDER DATED 22.11.2024 PASSED ON
I.A.NO.III IN CIVIL.MISC.NO.114/2018 ON THE FILE OF THE I
ADDITIONAL SENIOR CIVIL JUDGE, BENGALURU RURAL
DISTRICT, BENGALURU, REJECTING I.A.NO.III FILED UNDER
ORDER XXXIX RULE 1 AND 2 READ WITH SECTION 151 OF
CPC.

IN MFA NO.1996/2025

BETWEEN:

1. SMT. SUMALATHA V.,
D/O. LATE VENKATESH ALIAS
VENKATESH REDDY,
AGED ABOUT 40 YEARS,
2. SMT. VINITHA V.,
D/O. LATE VENKATESH ALIAS
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AGED ABOUT 39 YEARS,



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BOTH ARE R/AT NO.160,
DODDAMUNIYAPPA REDDY,
KACHARAKANAHALLI,
ST. THOMAS TOWN POST,
BENGALURU - 560 084.

...APPELLANTS

(BY SRI. MALLIKARJUN N.K., ADVOCATE FOR
SRI. SAMPATH A., ADVOCATE)

AND:

1. SMT. V. PADMA,
SINCE DEAD
REP. BY APPELLANTS,
WHO ARE LEGAL REPRESENTAIVES
ALREADY ON RECORD
(CAUSE TITLE AMENDED V/O DT:15.07.2026)
2. SRI R. RAGHUNATHA,
S/O. LATE E.V.RAGHAVULU,
AGED ABOUT 52 YEARS,
R/AT NO.24, M.M. STREET,
BEHIND HOTEL SHANTHI NAGAR,
MADIWALA, BENGALURU - 560 068.
3. SRI. P.BHASKAR NAIDU,
S/O. MUNIAH NAIDU,
AGED ABOUT 77 YEARS,
R/AT NO.113, 11TH MAIN,
4TH 'T' BLOCK, JAYANAGAR,
BENGALURU - 560 011.

...RESPONDENTS

(BY SRI.R.S.RAVI, SENIOR COUNSEL A/W
SRI.VASANTH RAJ, ADVOCATE FOR R2;
SERVICE OF NOTICE TO R3 IS HELD SUFFICIENT VIDE
ORDER DATED 17.07.2026)



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THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF CPC, AGAINST THE ORDER DATED 22.11.2024 PASSED ON I.A. NO.VI IN CIVIL MISC.NO114/2018. ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, ALLOWING I.A. NO.VI FILED UNDER ORDER XXXIX RULE 4 READ WITH SECTION 151 OF CPC.

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

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

These appeals are preferred by the appellants who are petitioner Nos.1 and 2 in Civil Misc.No.114/2018. Respondent No.1 died during the pendency of this appeal. Respondent No.2 is represented through a counsel. Respondent No.3 is unrepresented before this Court.

2. In MFA.No.1996/2025, service of notice to respondent is held sufficient. In MFA.No.2017/2025, respondent No.3 is not served, but it is seen that before the trial Court in miscellaneous petition, respondent No.3 was placed ex-parte and did not contest the present application, which is impugned. The appellants have questioned the impugned order passed on I.A.No.III filed under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC



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and in the connected matter, questioned the impugned order passed on I.A.No.VI filed by respondent No.2 under Order XXXIX Rule 4 r/w Section 151 of CPC.

3. The brief facts of the case are that the appellants who were the plaintiffs in OS.No.1054/2014 filed a suit for partition against their mother/defendant No.1 and other two defendants. The said suit came to be dismissed on 21.04.2018 for default. Aggrieved by the same, the appellants preferred Civil Misc.No.114/2018 to set aside the order of dismissal and to restore the original suit in O.S.No.1054/2014 and to permit the appellants who are the petitioners to contest the matter on merits.

4. During the pendency of miscellaneous petition filed for restoration of the suit, the appellants filed two applications i.e., I.A.Nos.II and I.A.No.III under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC seeking an order of temporary injunction restraining the respondents from interfering with the possession of the petitioners over



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the suit schedule property and alienating the suit schedule properties pending disposal of the petition.

5. Upon consideration of these two applications, an ad-interim exparte order was granted in the miscellaneous petition and upon appearance of respondent No.2, he filed an application i.e., I.A.No.VI under Order XXXIX Rule 4 r/w Section 151 of CPC seeking to vacate the ad-interim exparte order of temporary injunction granted in favour of the appellants. Upon consideration of these applications, the trial Court formulated certain points for deliberations and on hearing the learned counsel for both the parties i.e., appellants and respondent No.2, the applications i.e., I.A.Nos.II and III came to be rejected with cost of Rs.5,000/- each. The application i.e., I.A.No.VI filed by respondent No.2 came to be allowed and the exparte injunction order dated 27.08.2018 granted in favour of the appellants came to be vacated. It is this common order passed by the learned trial Judge that is



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questioned in these two appeals by the appellants who are the petitioners before the trial Court.

6. It is the vehement contention of the learned counsel for the appellants that the impugned order passed by the trial Court is illegal, perverse, and arbitrary and the same requires to be set aside and reversed. It is his vehement contention that during the pendency of the suit, he had an ad-interim order of temporary injunction and thereafter, when the suit was dismissed for default, after filing the miscellaneous petition to restore the suit, also he was the beneficiary of an ad-interim order of temporary injunction, which is vacated by the impugned order. Therefore, he contends that throughout the period of six years, he had the benefit of interim order, which requires to be continued, but the trial Court having not considered the matter on merits and the documents so placed and the arguments admitted by the learned counsel, has rejected the application without application of mind.



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7. It is his further contention that, if the respondents alienate the suit schedule properties, the appellants would be put to irreparable injury and hardship and it cannot be compensated by way of costs and there is every possibility of the respondents creating third party rights, which would create multiplicity of proceedings. Therefore, he seeks to allow the appeal and consequently, set aside the order.

8. Per contra, Sri R.S.Ravi, learned Senior counsel appearing on behalf of Sri Vasanth Raj, learned counsel appearing for respondent No.2 vehemently contends that respondent No.2 is the absolute owner who is in possession and enjoyment of the suit schedule property by virtue of a registered sale deed dated 28.04.2005 from respondent No.1 and the appellants herein. It is also contended that the appellants are none other than the daughters of respondent No.1-Smt. V.Padma and the appellants and respondent No.1 jointly executed a registered sale deed in favour of respondent No.2 and



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accordingly, he is in peaceful possession and enjoyment of the said property measuring to an extent of 1 acre 27 guntas in Survey No.68/11 situated at Doddanagamangala Village, Begur Hobli, Bangalore South Taluk.

9. Learned Senior counsel appearing for the respondent No.2 also contends that prior to the sale deed in the year 2005, an agreement of sale was entered into by the appellants and respondent No.1 - deceased mother to alienate the very same property on 03.02.2005. Therefore, the appellants and their deceased mother respondent No.1 were parties to the agreement of sale and are also parties to the sale deed executed in favour of respondent No.2. In pursuance to the said registered sale deed, respondent No.2 is in peaceful possession and enjoyment of the said property, which is Item No.1 of 'B' schedule property. Therefore, he contends that as regards this Item No.1 of 'B' schedule property is concerned, they cannot pray for any order of injunction or restraint as against this respondent as he is the absolute owner and



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the appellants having not shown diligence and continued the suit proceedings cannot have the benefit of an interim order when the suit itself is dismissed for default. It is further submitted that respondent No.2 is not concerned with the other items mentioned in Schedule 'A' and 'B' properties. On these grounds, he seeks to reject the appeal as there is no illegality or perversity in the impugned order passed by the learned trial Judge in the miscellaneous petition.

10. I have heard the learned counsel for the appellants and learned Senior counsel for respondent No.2 and perused the papers and the impugned order.

11. Apparently, there is no dispute to the fact that the appellants had filed a suit for partition against the respondents including their mother- respondent No.1 who is now no more for several items of properties in 'A' and 'B' schedule. The said suit came to be dismissed on 21.04.2018 for default. Aggrieved by this, Civil



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Misc.No.114/2018 is filed by the appellants to set aside the said order and restore the original suit. It is seen that after filing the miscellaneous petition, the appellants were the beneficiaries of the order of temporary injunction restraining the respondents from alienating the suit schedule properties during the pendency of the petition.

12. It is also seen that the miscellaneous petition is yet to be disposed of and it is presently at the stage of recording of evidence of the parties. During the pendency of the miscellaneous petition, an application i.e., I.A.No.VI came to be filed by respondent No.2 to vacate the interim order on the grounds urged by respondent No.2 therein, based on which, the application was allowed and the interim order granted on I.A.Nos.II and III came to be vacated and the application i.e., I.A.No.VI filed by respondent No.2 came to be allowed.

13. It is the vehement contention of learned counsel for the appellants that with regard to other items



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of 'A' and 'B' schedule properties, respondent No.3 remained exparte before the trial Court as well as in the miscellaneous proceedings. In the miscellaneous proceedings, he has not participated on the applications i.e., I.A.Nos.II and III and he was placed exparte. At this stage, this Court would not want to delve into the merits of the miscellaneous petition, so also on the merits of the suit with regard to the contentions raised by the appellants. However, it can be safely concluded that by virtue of the documents produced by respondent No.2, there appears to be a sale agreement dated 03.02.2005 executed by the appellants and their mother-respondent No.1 in favour of respondent No.2 and a registered sale deed in favour of respondent No.2 by the very same appellants and their deceased mother respondent No.1. Several contentions are urged with regard to the veracity and validity of this registered document, which will have to be agitated by the appellants before the miscellaneous Court in the pending petition, if the appellants succeed in



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the miscellaneous petition. Therefore, this Court refrains from making any observations in that regard.

14. As the miscellaneous petition is yet to be disposed of and it is of the year 2018, it may be appropriate to direct the Miscellaneous Court to dispose of the miscellaneous petition expeditiously. At the same time, this Court is not inclined to grant an order of continuation of the injunction as against Item No.2 of 'B' schedule property. Apparently, this Court is not inclined to grant any kind of interim order as against Item No.1 in 'B' schedule property, which is claimed to have been alienated by the appellants and their deceased mother respondent No.1 in favour of respondent No.2.

15. Nevertheless, this Court deems it appropriate to pass an order of status quo to be maintained till the disposal of the miscellaneous petition by the said Court, insofar as other items except Item No.1 of 'B' schedule property, which is a portion of Item No.2 of 'A' schedule



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property. To be more precise, Item No.1 of 'B' schedule property in Survey No.68/11 measuring 1 acre 27 guntas including 3 guntas of karab land, out of 2 acres 16 guntas, whereas the appellants have mentioned Item No.2 of 'A' schedule property to show Survey No.68/11 measuring 2 acres 16 guntas, which is larger extent of the Survey No.68/11.

16. Under these circumstances, this Court deems it appropriate to pass the following

ORDER

- (i) MFA.No.2017/2025 is ***allowed in part.***
- (ii) MFA.No.1996/2025 is ***dismissed.***
- (iii) Respondent No.3 shall maintain an order of status quo with regard to 'A' and 'B' schedule properties except Item No.1 of 'B' schedule property, which is a portion of Item No.2 of 'A' schedule property.



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- (iv) It is made clear there is no order as against respondent No.2 with regard to the properties, which is alleged to be executed by the appellants and the deceased mother respondent No.1 in his favour.
- (v) In view of the fact that the miscellaneous petition is of the year 2018, the trial Court is directed to make an endeavour to dispose of the miscellaneous petition within a period of six months from the date of receipt of copy of the order.
- (vi) The parties shall co-operate with the trial Court for disposal of the miscellaneous petition.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

PB
List No.: 1 Sl No.: 20