



CNR: KAHC010185112026

NC: 2026:KHC:36779
MFA No. 2005 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 2005 OF 2026 (CPC)

BETWEEN:

SRI KANTHA N.
S/O. SRI NINGAPPA. A.S.
AGED ABOUT 43 YEARS
R/AT.NO.764/18
SRIRAM BADAWANE
NITTAVALLI
DAVANAGERE - 577 004.

PRESENTLY R/AT-NO.26/1
NEAR GANESHA TEMPLE
ATTURU LAYOUT
TIRUMALA NAGAR
YALAHANKA NEW TOWN
YALAHANKA
BENGALURU NORTH
ADDITIONAL TALUK
BENGALURU - 560 0064.

...APPELLANT

(BY SRI G. BALAJI NAIDU, ADVOCATE)

AND:

1. SRI RAVIPRAKASH
S/O. KENCAIAH
AGED ABOUT 56 YEARS.
2. SRI VIJAY KRISHNA
S/O. RAVI PRAKASH
AGED ABOUT 36 YEARS.
3. SMT. DAKSHAYINI

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



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D/O. RAVI PRAKASH
AGED ABOUT 34 YEARS.

ALL ARE RESIDING AT NO.253
SITE NO.4, SY.NO.7/2
BBMP KATHA NO.41712, 4TH CROSS
NELAGADARANAHALI
YELAHANKA HOBLI
BENGALURU - 560 073.

4. SMT. GOWRAMMA R.
D/O. SRI RAMAIAH
AGED ABOUT 66 YEARS
R/O. NO.16, 15TH MAIN ROAD
VASANTHNAGAR
BENGALURU - 560 062.

...RESPONDENTS

THIS MFA IS FILED UNDER ORDER XLIII RULE 1(R) READ WITH SECTION 151 OF THE CPC, PRAYING TO SET ASIDE THE ORDER DATED 19.04.2025 PASSED ON IA.NO.1 IN O.S.NO.2848/2025 BY XIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

Heard learned counsel for appellant-defendant No.1.

2. Matter is listed today for consideration of I.A.Nos.1 and 2 of 2026. I.A.No.2/2026 is filed seeking condonation of the delay of 234 days in filing the appeal



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and I.A.No.1/2026 is filed seeking stay of the operation and execution of the impugned order.

3. During the course of arguments, learned counsel for appellant-defendant No.1 submits that the impugned order challenged in the present appeal is an ad interim *ex parte* order of temporary injunction passed by the trial Court, restraining the defendants or any persons claiming under them from interfering with the plaintiff's possession and enjoyment of the suit 'B' Schedule property until the next date of hearing.

4. It is stated that the appellant-defendant No.1 has already entered appearance before the trial Court, filed a statement of objections and also filed an application seeking vacation of the ad interim *ex parte* order of temporary injunction. However, the trial Court has not considered the said application on the ground that notice to defendant No.2 has not yet been served.



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5. It is the contention of learned counsel for appellant-defendant No.1 that respondent Nos.1 to 3-plaintiffs have deliberately furnished an incorrect address of defendant No.2, as a result of which notice has not been served on him. It is further contended that the impugned ad interim *ex parte* order of temporary injunction, passed on 19.04.2025, continues to remain in force and that the application filed by defendant No.1 seeking vacation of the said order has not been considered by the trial Court, despite the filing of the statement of objections, solely on the ground that notice to defendant No.2 has not yet been served. Therefore, learned counsel for appellant-defendant No.1 submits that he would be satisfied if a direction is issued to the trial Court to dispose of the application within a period of thirty (30) days. He further undertakes to furnish the correct address of defendant No.2 and to take necessary steps for effecting service of notice upon him.



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6. Having heard learned counsel for the appellant-defendant No.1, it is seen that when an application is filed under Order XXXIX Rules 1 and 2 of CPC seeking an ad interim *ex parte* order of temporary injunction and such an order is granted against the defendants, upon the appearance of the defendants and the filing of their statement of objections along with an application seeking to vacate the interim order, the trial Court is expected to make an endeavour to consider and dispose of the said application as expeditiously as possible and in any event, within thirty (30) days from the date of grant of the ad interim order. In the present case, more than one year has elapsed, yet the application has not been considered on its merits.

7. Accordingly, I pass the following:

ORDER

- i. The appeal is ***disposed of;***



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- ii. Liberty is reserved to the appellant-defendant No.1 to move the trial Court for hearing and disposal of the application filed under Order XXXIX Rule 4 of CPC, in accordance with law;
- iii. The trial Court shall consider the said application and pass appropriate orders thereon, in accordance with law;
- iv. In the meanwhile, if notice has not been served on defendant No.2, the appellant-defendant No.1 is at liberty to file a memo furnishing the correct address of defendant No.2. Upon such memo being filed, the trial Court shall issue notice to defendant No.2 at the corrected address and thereafter, consider and dispose of the applications, in accordance with law, within an outer limit of thirty (30) days from the date of receipt of a copy of this order;
- v. It is needless mention that this Court has not expressed any opinion on the merits of the matter;



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In view of disposal of the appeal, pending interlocutory applications, do not survive for consideration and the same pales into insignificance.

**Sd/-
(PRADEEP SINGH YERUR)
JUDGE**

CPN
List No.: 1 Sl No.: 16