



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 12302 OF 2025 (GM-CPC)

BETWEEN:

S. MANJUNATH
S/O OF LATE SHAMANNA
AGED ABOUT 57 YEARS
RESIDING AT NO. 169,
YELLAMMA TEMPLE ROAD
NAGAVARAPALYA, CV RAMNAGAR POST
BANGALORE- 560 093

...PETITIONER

(BY SRI. S RAMA MURTHY., ADVOCATE)

AND:

S. PARTHASARATHY
SON OF LATE SHAMANNA
AGED ABOUT 53 YEARS
RESIDING AT NO. 153/3, 14TH A CROSS
YELLAMMA TEMPLE ROAD
NAGAVARAPALYA, CV RAMNAGAR POST
BANGALORE- 560 093

...RESPONDENT

(BY SRI. A G NAGARAJA., ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO-DIRECT QUASHING
ANNX-A DTD 28.08.2023 PASSED BY THE LEARNED XXXVIII



ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE (CCH-39) IN MIS C NO. 791/2015.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 12.06.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

Aggrieved by the order dated 28.08.2023 passed in I.A.No.1/2020 and I.A.No.2/2020 in Misc.No.791/2015 by the XXXVIII Additional City Civil and Sessions Judge, Bangalore, the petitioner is before this Court.

2. The facts of the case are that the petitioner had filed O.S.No.3456/2009 for the relief of mandatory injunction and permanent injunction in relation to the suit schedule property where the construction is carried out by the respondent encroaching upon the road left by the parties for their usage and for the general public. In that suit, the petitioner filed an application under Order 39 Rule 1 and 2 of CPC for an order of temporary injunction restraining the defendant from proceeding with the construction in so far as the encroached area is



concerned. The Court granted ad-interim temporary injunction. The respondent appeared before the Court and the temporary injunction order was made absolute.

3. It is the case of the petitioner that in spite of the injunction order, defendant proceeded with the construction in the encroached portion deliberately, intentionally with audacity which made the petitioner to file the application under Order 39 Rule 2A of CPC for initiation action against the respondent who has intentionally violated the order. At the first instance, the matter was taken in the original suit itself and thereafter, registered as Misc.Case.No.791/2015. It is stated that the evidence of PW.1 is completed, the respondent through his advocate had cross examined the petitioner in part and thereafter filed a memo on 15.06.2017 stating that further cross examination of PW.1 is concerned, he is willing to adopt the cross examination of the petitioner in O.S.No.6592/2012 another suit filed by the respondent against the petitioner which was clubbed with O.S.No.3456/2009. The matter was posted for argument. When the matter was set down for hearing, the respondent filed I.A.No.1/2020 and I.A.No.2/2020



to recall PW.1 stating that he did not cross examine PW.1 and as there was change of advocate, he could not inform him about not having cross examined PW.1 and therefore, sought for permission to cross examine PW.1 and to recall the order passed by the Court.

4. Then the defendant filed I.A.No.1/2020 under Section 151 of CPC to reopen the stage from respondent's argument to cross examination of PW.1 and I.A.No.2/2020 under Order 18 Rule 17 read with Section 151 of CPC to recall PW.1 for examination. The petitioner had filed his objections. It is stated that in relation to I.A.No.1/2020 and I.A.No.2/2020, impugned order is passed which is not a speaking order. All these exercises are done by the respondent to avoid the application under Order 39 Rule 2A being decided early and hence, the petitioner being prejudiced without any alternative remedy he has approached this Court questioning the impugned order.

5. Learned counsel appearing for the petitioner had relied on the judgment of the Apex Court in case of ***Dalip Singh Vs. State of Uttar Pradesh and Others***¹ and ***Kranti Associates***

¹ (2010) 2 SCC 114



Private Limited and Another Vs. Masood Ahmed Khan and Others². Relying on these judgments, it is submitted that the litigant who attempts to pollute the stream of justice and who touches the pure foundation of justice with tainted hands is not entitled for any relief either interim or final.

6. Learned counsel appearing for the respondent submits that the trial Court in the interest of justice had allowed the application and there are no grounds to interfere with the same.

7. Having heard the learned counsels on either side, perused the material on record. The order impugned dated 28.08.2023, as rightly submitted by the petitioner is not a reasoned order. Except imposing the cost of Rs.500/-, the trial Court had failed to record the reasons why the applications are allowed and at the same time, this Court is conscious of the fact that the order is passed on 28.08.2023. This writ petition is filed in the year 2025 and the suit is pending. At this stage, by setting aside the order and asking the trial Court to redo the exercise is not in the interest of either of the parties and the

² (2010) 9 SCC 496



impugned order will not cause any kind of prejudice to the petitioner. If the suit is proceeded, the petition will be able to get the relief from the trial court. Hence, this Court is not inclined to interfere with the order impugned. In that view of the matter, this Court is passing the following:

ORDER

- i. The XXXVIII Additional City Civil and Sessions Judge, Bangalore, is requested to dispose of the matter as expeditiously as possible.
- ii. The pending I.A. filed by the petitioner shall be considered expeditiously.
- iii. Accordingly, the writ petition is ***disposed of***.
- iv. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 1