



CNR: KAHC010244482026

NC: 2026:KHC:37517
MFA No. 2467 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 2467 OF 2026 (CPC)

BETWEEN:

1. SMT.T CHAYA
D/O TUKARAM REDDY
AGED ABOUT 46 YEARS
2. SMT.T.PRAMILA,
D/O TUKARAM REDDY
AGED ABOUT 49 YEARS

BOTH THE APPELLANTS ARE
R/AT NO.431, 14TH CROSS ROAD
6TH MAIN ROAD, SHASTHRINAGAR
2ND STAGE, BANASHANKARI
BENGALURU-560 028.

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

REP. BY THEIR REGISTERED GENERAL
POWER OF ATTORNEY
DATED 31.10.2017
AND 31.10.2017.

SRI S MANJUNATHA REDDY
S/O LATE SRI. SRINIVASA REDDY
AGED ABOUT 53 YEARS
R/AT NO.19, 2ND MAIN ROAD
CHAMUNDESHWARI LAYOUT,
DODDABOMMASANDRA
BENGALURU-560097.

...APPELLANTS

(BY SRI. C SHANKAR REDDY., ADVOCATE)



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AND:

SRI NANDISH C
S/O CHANNAIAH S.K
AGED ABOUT 43 YEARS
R/AT NO.431, 14TH CROSS ROAD
6TH MAIN ROAD, SHASTHRINAGAR
2ND STAGE, BANASHANKARI
BENGALURU-560 028.

...RESPONDENT

(BY SRI.AMARNATH V., ADVOCATE)

THIS MFA IS FILED U/S 43 RULE 1(R) OF CPC, AGAINST
THE ORDER DATED 11.03.2026 PASSED ON I.A.NO.I IN
OS.NO.588/2026 ON THE FILE OF THE X ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE, VIII ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE, BENGALURU, (CCH-15), ALLOWING
THE I.A.NO.1 FILED UNDER ORDER 39 RULE 1 AND 2 OF CPC.

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



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CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

This appeal is preferred by defendants Nos.1 and 2 arising from O.S.No.588/2026 challenging the order passed on I.A.No.1 filed under Order XXXIX Rule 1 and 2 of CPC granting an order of temporary injunction restraining the appellants-defendants from interfering with the possession of the plaintiff over the suit schedule property during the pendency of the suit.

2. Parties to the proceeding shall be referred to as plaintiff and defendants, for sake of convenience.

3. The facts of the case are as under:

Plaintiff filed a suit against the defendants seeking for the relief of permanent injunction over the suit schedule property measuring to an extent of East to West 40 feet and North to South 30 feet, in all 1200 square feet bearing Site No.30, Assessment No.10/3, Khata No.142 coming under the BBMP limits of Shettyhalli Ward (Ward No.12), situated at Abbigere Village, Yeshwanthpur Hobli, Bangalore North Taluk.



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3.1. It is the case of the plaintiff that he has purchased the suit schedule property for a valuable sale consideration from his vendor Sri B.K.Jagadeesh, son of late Sri B.N.Krishnamurthy under registered sale deed dated 27.11.2025 and that originally the property belonged to one Sri S.Manjunath, son of late Sri Sonnappa, who secured the same by virtue of a partition deed dated 21.06.1992. Later Sri S.Manjunath, to meet his financial requirements, alienated the suit schedule property in favour of Sri B.K.Jagadeesh under the sale deed dated 24.04.2002 and after that, the property has been mutated in the name of B.K.Jagadeesh and subsequently, the plaintiff has purchased the suit schedule properties from B.K.Jagadeesh for a valuable sale consideration, his name was entered in the revenue entries and has also obtained permission from BWSSB for digging a bore well for residential purpose.

3.2. Along with the suit, plaintiff filed an application under Order XXXIX Rule 1 and 2 for grant of temporary injunction. The defendants filed their statement of objections, denied the averments made in the plaint, took up a plea that



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there are certain typographical errors crept in the sale deed dated 02.02.1998, wherein the property purchased is incorrectly shown to be measuring East to West 30 feet and North to South 20 feet instead of East to West 20 feet and North to South 30 feet and that the original owner Sri S.Manjunath had agreed to execute necessary rectification deed as herein stated above and later, he has not come forward to do so. Hence, defendants filed O.S.No.563/2023 against the said S.Manjunath, which is pending adjudication.

3.3. The trial Court, after hearing the counsel for both parties, framed relevant points for consideration of the application and having not found any material in support of the defendants, and there being no cogent reasons to deny the interim order and *prima facie* case made out by the plaintiff for grant of the order, allowed the application-I.A.No.1 and restrained the defendants from interfering with the possession of the plaintiff over the suit schedule property.

4. It is this order that is questioned by the defendants before this Court by contending that the impugned order



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passed by the learned trial Judge is illegal, arbitrary and perverse and the same requires to be set aside. It is further contended by learned counsel that the documents relied by the appellants-defendants were not seriously disputed by the respondent-plaintiff and the appellants have purchased the property prior to that of the respondent. It is further contended by learned counsel that the trial Court has gone beyond the necessary requirements for consideration of application under Order XXXIX Rule 1 and 2 and has conducted a mini trial, which the trial Court ought not to have done as it was only required to examine a triable issue on the basis of affidavits and the documents placed and not to venture into a mini trial.

4.1. It is further contended by learned counsel that the impugned order passed by the trial Court would have a bearing on the other suits filed by the defendants against his vendor and consequently will lead to other multiplicity of proceedings and that the plaintiff ought to have claimed additional reliefs and amendments. It is the vehement contention of learned counsel for the defendants that in the guise of obtaining an interim order, the respondent-plaintiff is putting up



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construction in the property belonging to the appellants-defendants and the sanctioned plan obtained is illegal. So also he is trying to put up construction without following the rule of law, the by-laws by not leaving the setbacks and therefore, making an attempt to encroach into the property of the defendants.

4.2. It is further contended by learned counsel that the writ petitions are filed, which are pending adjudication, whereby relief is sought with regard to the illegal construction being put up in violation to the permitted sanctioned plan and therefore, any order passed herein would have a bearing on those writ petitions against the Authorities. On these grounds, he seeks to allow the appeal and consequently, set aside the impugned order.

5. *Per contra*, learned counsel appearing for the respondent-plaintiff vehemently contends that there is no illegality or perversity or arbitrariness in the impugned order passed by the trial Judge. He further contends that the suit is filed for bare injunction against the defendants not to interfere



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with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. It is also contended that respondent-plaintiff is the owner of the suit schedule property by way of a registered sale deed and he is putting up construction in accordance with the sanctioned plan granted by the Statutory Sanctioning Authority. Therefore, he has not violated any of the regulations of the sanctioned plan or the Municipal Rules and Regulations. So also, he contends that he is not putting up any construction in the property of the defendants and he is entitled to put up construction in his own property as he is the absolute owner. He also contends that there is no illegality in the order passed as *prima facie* case is made out by the plaintiff, which is rightly appreciated and the interim order is granted by the learned trial Judge. Hence, seeks dismissal of the appeal.

6. Having heard learned counsel for the appellants and learned counsel for the respondent, the point that arises for consideration before this Court is:

1. *Whether the impugned order passed by the trial Court calls for interference? and*
2. *What order?*



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7. There is no dispute to the fact that the plaintiff has purchased the suit schedule property from one B.K.Jagadeesh by virtue of a registered sale deed dated 27.11.2025 measuring to an extent of 1200 square feet bearing Site No.30 as described in the suit schedule. The revenue records are changed in favour of the plaintiff. He has also obtained a sanctioned plan and is putting up construction. The revenue entries are mutated in the name of the plaintiff.

8. While an application under Order XXXIX Rule 1 and 2 is considered, three essential elements are to be taken into consideration for deciding the same. They are *prima facie* case, balance of convenience and irreparable hardship that would be caused to the aggrieved party. While considering application, the trial Court need not go into *prima facie* title and confuse itself with *prima facie* title, as both are different. The trial Court will have to see whether the plaintiff has made out a *prima facie* case and after doing so, whether the balance of convenience will shift in favour of the plaintiff or the defendant and whether hardship would be caused to the plaintiff or the defendant in non-grant of the temporary injunction.



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9. In the present case on hand, as stated earlier, the suit itself is only for bare injunction and materials are placed before the Court to show *prima facie* case has been made out by the plaintiff to go on for trial. It is a different matter that the plaintiff may either succeed or not in the suit, but at this stage, the trial Court need not conduct a mini trial and hence, has rightly decided the application without going into the merits of the matter and came to a conclusion that *prima facie* case having been made out by the plaintiff, balance of convenience tilts in his favour and accordingly, hardship would be caused more to the plaintiff than the defendants and accordingly, granted an order of temporary injunction by restraining the defendants from interfering with the possession of the plaintiff over the suit schedule property.

10. It is seen that plaintiff is putting up construction in his portion of the property as he is the absolute owner. If that be the case, the defendants are at liberty to make necessary application to protect their right either in the same suit or by filing a fresh suit. If there is any separate cause of action that



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arises, it is open to the defendants to approach the Court and seek for necessary relief in accordance with law.

11. The apprehension exhibited by the learned counsel for appellants-defendants that writ petitions are pending with regard to the violations and breach of construction against the sanctioned plan, this Court is not going to certify whether the plaintiff is putting up construction in accordance with the sanctioned plan as the same is not the issue before this Court. This order is only confirming the order of the trial Court with regard to grant of temporary injunction, but that by itself would not mean the construction put up or sought to be put up by the respondent-plaintiff is in accordance with law and if the same is questioned in any proceedings, the same will have to be dealt with in accordance with law and the manner known to law on its own merits. This Court is not dealing with such an application to decide such an issue.

12. Under the circumstances, the trial Court, having come to the conclusion of a *prima facie* case, balance of convenience and irreparable hardship being caused more to the



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plaintiff rather than the defendants, has allowed the application in its discretionary power, which cannot be interfered by this Court in the appellate jurisdiction. Even if this Court has a separate opinion of its own, unless any perversity or illegality shown in the impugned order, which in my humble opinion is not the case neither is it shown to have been committed by the trial Court.

13. Accordingly, I pass the following:

ORDER

- i) This appeal is ***dismissed***.
- ii) It is needless to mention that the construction that are put up or sought to be put up would have to be in accordance to the sanctioned plan.

Pending applications, if any, stand disposed of.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE