



CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM
MISCELLANEOUS FIRST APPEAL NO. 2167 OF 2017 (CPC)
C/W
MISCELLANEOUS FIRST APPEAL NO. 2166 OF 2017 (CPC)
WRIT PETITION NO. 62989 OF 2016 (GM-CPC)

IN MFA No. 2167/2017
BETWEEN:

1. SUNIL KUMAR DASARATHAN
S/O DASARATHAN P
AGED ABOUT 43 YEARS
R/A NO.218, 5TH C MAIN, 2ND BLOCK
HRBR LAYOUT, BANGALORE-560043.

...APPELLANT

(BY SRI. R. MADHUSUDDHANA REDDY, ADVOCATE FOR
SRI. C.M. NAGABHUSHANA, ADVOCATE)

AND:

1. MUNISWAMY REDDY
S/O NOT KNOWN TO APPELLANT
AGED ABOUT 70 YEARS
R/A 10TH MAIN, 100 FEET ROAD
MUNISWAMY REDDY BUILDING
2ND CROSS, H R B R LAYOUT
BANASWADI, SUB REGISTRAR OFFICE ROAD
BANGALORE-560043.
2. BHAGYAMMA
W/O MUNISWAMY REDDY
AGED ABOUT 60 YEARS
R/A 10TH MAIN, 100 FEET ROAD
MUNISWAMY REDDY BUILDING

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

2ND CROSS, H R B R LAYOUT
BANASWADI, SUB REGISTRAR OFFICE ROAD
BANGALORE-560043

...RESPONDENTS

(R1 - MUNISWAMY REDDY – SERVED
R2 – BHAGYAMMA - SERVED)

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DATED 07.02.2017 IN O.S.NO.4844/16
ON THE FILE OF THE LVIII ADDITIONAL CITY CIVIL JUDGE,
BENGALURU.

IN MFA NO. 2166/2017
BETWEEN:

1. SUNIL KUMAR DASARATHAN
S/O DASARATHAN P
AGED 43 YEARS,
R/AT NO. 218, 5TH C MAIN, 2ND BLOCK
HRBR LAYOUT
BANGALORE - 560 043.

...APPELLANT

(BY SRI. R. MADHUSUDHAN REDDY, ADVOCATE FOR
SRI. C.M. NAGABHUSHANA, ADVOCATE)

AND:

1. MUNISWAMY REDDY
S/O B.PILLA REDDY,
AGED ABOUT 70 YEARS,
R/AT 10TH MAIN
100 FEET ROAD, MUNISWAMY REDDY
BUILDING, 2ND CROSS, H.R.B.R.LAYOUT,
BANASWADI SUB-REGISTRAR OFFICE ROAD,
BANGALORE - 560 043.
2. BHAGYAMMA
W/O MUNISWAMY REDDY,

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

AGED ABOUT 60 YEARS,
R/AT 10TH MAIN 100 FEET ROAD,
MUNISWAMY REDDY BUILDING, 2ND CROSS,
H.R.B.R.LAYOUT, BANASWADI, SUB-REGISTRAR
OFFICE ROAD, BANGALORE - 560 043.

3. SRINIVASA REDDY
SON OF MUNISWAMY REDDY,
AGED ABOUT 45 YEARS
RESIDING AT 10TH MAIN, 100 FEET ROAD,
MUNISWAMY REDDY BUILDING,
2ND CROSS, H.R.B.R LAYOUT, BANASWADI,
SUB-REGISTRAR OFFICE ROAD, BANGALORE-560043.
4. MANOHAR REDDY
SON OF PAPAIAH REDDY,
AGED ABOUT 40 YEARS
RESIDING AT 10TH MAIN, 100 FEET ROAD,
MUNISWAMY REDDY BUILDING,
2ND CROSS, H.R.B.R LAYOUT, BANASWADI,
SUB-REGISTRAR OFFICE ROAD, BANGALORE-560043.
5. V. VASUDEVAIAH
S/O LATE A THIMMAIAH REDDY,
AGED 65 YEARS
R/AT MAHARAJA ROAD, LAKSHMI NILAYA,
ROBERTSONPET K.G.F
KOLAR DISTRICT-563122.
6. T MEENAKSHI
D/O LATE A THIMMAIAH REDDY
AGED 63 YEARS
NO.1019, GROUND FLOOR, BEML MAIN ROAD,
HAL THIRD STAGE, GEETHANJALI LAYOUT,
BANGALORE-560017.
7. T. THULASI
D/O LATE THIMMAIAH REDDY,
AGED ABOUT 61 YEARS
NO.1019, GROUND FLOOR, BEML MAIN ROAD,



CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

HAL THIRD STAGE, GEETHANJALI LAYOUT,
BANGALORE-560017.

8. T SHEKAR REDDY
S/O LATE A THIMMAIAH REDDY,
AGED 59 YEARS
NO.621, 4TH CROSS, HAL III STAGE,
BANGALORE-560075.
9. T SRINIVASA
S/O LATE A THIMMAIAH REDDY
AGED 57 YEARS
NO.327, I MAIN ROAD, CAMBRIDGE LAYOUT,
ULSOOR, BANGALORE-560008.
10. T ANAND
S/O LATE A THIMMAIAH REDDY,
AGED 56 YEARS
NO.327, I MAIN ROAD, CAMBRIDGE LAYOUT,
ULSOOR, BANGALORE-560008.
11. T RAMESH
S/O LATE A THIMMAIAH REDDY,
AGED 52 YEARS
NO.327, I MAIN ROAD, CAMBRIDGE LAYOUT,
ULSOOR, BANGALORE-560008.

...RESPONDENTS

(BY SRI. JOSE SABASTIAN, ADVOCATE FOR R1 & R2;
V/O DATED 14.07.2017, NOTICE TO R3 TO R11 IS
DISPENSED WITH.)

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DATED 07.02.2017 IN
O.S.NO.4441/16 ON THE FILE OF THE LVIII ADDITIONAL
CITY CIVIL JUDGE, BENGALURU.



CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

IN WP NO. 62989/2016
BETWEEN:

1. SUNIL KUMAR DASARATHAN
SON OF DASARATHAN P
AGED 43 YEARS
RESIDING AT NO 218, 5TH C MAIN,
2ND BLOCK, HRBR LAYOUT
BANGALORE – 560043.

...PETITIONER

(BY SRI. R. MADHUSUDHANA REDDY, ADVOCATE)

AND:

1. MUNISWAMY REDDY
S/O NOT KNOWN TO PETITIONER
AGED ABOUT 70 YEARS
RESIDING AT 10TH MAIN, 100FEET ROAD,
MUNISWAMY REDDY BUILDING,
2ND CROSS, H R B R LAYOUT
BANASWADI, SUB REGISTRAR OFFICE ROAD
BANGALORE – 560043
2. BHAGYAMMA
W/O MUNISWAMY REDDY
AGED ABOUT 60 YEARS
RESIDING AT 10TH MAIN, 100FEET ROAD,
MUNISWAMY REDDY BUILDING,
2ND CROSS, H R B R LAYOUT
BANASWADI SUB REGISTRAR OFFICE ROAD
BANGALORE – 560043.

...RESPONDENTS

(BY SRI. JOSE SEBASTIAN, ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER
DATED 1.12.2016 PASSED BY THE LVIII ADDL. CITY CIVIL
AND SESSIONS JUDGE, BANGALORE IN O.S.NO.4441/2016

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

VIDE ANENX-E DATED 1.12.2016 REJECTING I.A.NO.4 OF 2016 AND ALLOW I.A.NO.4, APPLICATION FOR AMENDMENT FILED BY THE PETITIONER VIDE ANNEX-C.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

These two Miscellaneous First Appeals and the connected writ petition arise between the same parties and pertain to the same property. Hence, all the three matters are taken up together and are disposed of by this common order.

2. For the sake of convenience and to avoid any confusion, the ranking of the parties as arrayed in O.S.No.4441/2016 is referred to in this order.

3. The plaintiff in O.S.No.4441/2016 has instituted the said suit seeking a decree of permanent injunction, tracing his claim to the auction site confirmation letter issued by the Bangalore Development Authority (for short, "BDA") and the consequent registered sale deed executed by the BDA on 03.11.2015. The plaintiff is aggrieved by the rejection of the

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, "CPC"), seeking amendment of the plaint, which order is called in question in W.P.No.62989/2016. The plaintiff is also aggrieved by the rejection of I.A.No.I filed under Order XXXIX Rules 1 and 2 of CPC, seeking an order of temporary injunction against the defendants, which order is questioned in MFA No.2166/2017.

4. Defendants No.1 and 2 have, in turn, instituted a counter suit in O.S.No.4844/2016 seeking a decree of permanent injunction simpliciter against the plaintiff. In the said suit, defendants No.1 and 2 filed an application under Order XXXIX Rules 1 and 2 of CPC seeking temporary injunction against the plaintiff, which came to be allowed. The said order granting temporary injunction in favour of defendants No.1 and 2 is called in question by the plaintiff in MFA No.2167/2017.

5. Heard the learned counsel appearing for the plaintiff and the learned counsel appearing for the defendants. Perused the pleadings in both the suits as also the respective applications filed under Order XXXIX Rules 1 and 2 of CPC.

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

6. This Court has also taken note of the fact that the order of injunction granted in O.S.No.4844/2016 in favour of defendants No.1 and 2 was stayed by this Court by order dated 27.07.2017. Likewise, in MFA No.2166/2017, this Court, by order dated 17.03.2017, granted an order of interim injunction in favour of the plaintiff, which order has continued to operate against defendants No.1 and 2 since 2017. In the backdrop of the aforesaid orders and the rival claims set up by the parties, it would be appropriate to examine the material on record.

In W.P.No.62989/2016 – Amendment of plaint

7. Before examining the correctness of the order refusing temporary injunction in O.S.No.4441/2016, this Court would first deal with the question as to whether the learned Trial Judge was justified in rejecting the application for amendment of the plaint. The plaintiff, pursuant to obtaining a rectification deed from the BDA, sought to amend the schedule to the plaint by incorporating Survey No.255, whereas the original schedule referred only to Survey No.341 and certain measurements. The learned Trial Judge rejected the application



CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

principally on the ground that permitting the plaintiff to incorporate Survey No.255 would alter the very nature and identity of the suit schedule property.

8. In this regard, it would be apposite to advert to the findings recorded in O.S.No.3600/1984, instituted by the father of defendant No.1, namely, S. Pilla Reddy, which judgment is produced at Annexure-X2. The relevant portion of paragraph 8 thereof reads as under:

"8. I am rather surprised by the ingenuity of the contention of the learned counsel for the plaintiff as to how these questions can be gone into in a suit wherein there is no challenge to the land acquisition proceedings taken by the State Government at the behest of the BDA authorities for its scheme and the suit being one for mere injunction. That apart, in this case, the defendants contended inter alia that an extent of 7 acres and 31 guntas of land in S.No.255 of Banaswadi village were acquired by the Government for the purpose of accommodation of layout called "Banasawadi-Hennur Road layout". Notification No. ALAO/HC/PR/389/76-77 published in the Karnataka Gazette dated: 5.5.1977 and 12.6.80..... award so prepared in the names of its notified Khatedars and the persons interested in the acquisition and compensation was awarded to them. The compensation amount has however, been sent to Civil Court for adjudication under Section 30 and 31 of the Land

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

Acquisition Act. The plaintiff having no concern to the land acquired in the proceedings, there was no need for issue of a notice to him and the notices in the land acquisition proceedings were issued to all the notified khatedars and also the persons entrusted in the acquisition. The B.D.A. being the real owner of the suit property, no injunction will issue against its agents, or representatives....."

The aforesaid findings make it evident that the suit instituted by the father of defendant No.1 was dismissed, inter alia, having regard to the acquisition proceedings. The Court, while dismissing the said suit, recorded a finding that an extent of 7 acres 31 guntas in Survey No.255 of Banaswadi Village had been acquired by the Government for formation of the Banaswadi-Hennur Road layout. The judgment also refers to the determination and payment of compensation to the landowners.

9. Significantly, the judgment records a finding that the father of defendant No.1, namely, B. Pilla Reddy, had no right or title in respect of the acquired land and was not the notified khatedar. The Court further recorded that, pursuant to the acquisition and BDA being the beneficiary of the acquisition,

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

the BDA was the real owner of the suit property, namely, Survey No.255.

10. In the backdrop of the aforesaid findings recorded in the earlier suit instituted by the father of defendant No.1, this Court is of the view that the reasoning adopted by the learned Trial Judge that incorporation of Survey No.255 would alter the nature of the suit schedule property cannot be sustained and, prima facie, suffers from an error apparent on the face of the record.

11. The findings recorded in the earlier proceedings are certainly relevant for the limited purpose of considering the amendment application. This Court is not, at this stage, recording any conclusive finding on the title or possession of the parties. However, having regard to the observations extracted hereinabove, coupled with the rectification deed subsequently executed by the BDA in favour of the plaintiff, this Court is of the view that the plaintiff has made out a case for permitting the proposed amendment.

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

12. The question as to the locus and entitlement of the defendants is a matter which requires adjudication at trial. The plaintiff traces his title through the BDA, which is a statutory authority. Further, the plaintiff has produced the rectification deed executed by the BDA. In such circumstances, the proposed amendment cannot be rejected merely on the ground that incorporation of Survey No.255 would alter the nature of the suit.

13. It is needless to observe that permitting the amendment would not, by itself, amount to acceptance or proof of the plaintiff's case. The burden continues to remain upon the plaintiff to establish his title, lawful possession and entitlement in respect of the amended suit schedule property in accordance with law. Accordingly, the order rejecting the application for amendment of the plaint is liable to be set aside.

In MFA No.2166/2017 — Refusal of temporary injunction in O.S.No.4441/2016

14. In the light of the findings recorded hereinabove and, in particular, the observations contained in paragraph 8 of the judgment in O.S.No.3600/1984, this Court is required to



CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

examine the prima facie material placed before the learned Trial Judge in O.S.No.4441/2016.

15. The plaintiff has placed on record the registered sale deed dated 03.11.2015 executed by the BDA, followed by the rectification deed executed by the BDA, produced at Annexure-W. These documents constitute prima facie material in support of the plaintiff's claim of title and possession. The learned Trial Judge, while considering the application under Order XXXIX Rules 1 and 2 of CPC, has not properly appreciated the effect of these documents in juxtaposition with the material relied upon by the defendants.

16. The defendants, on the other hand, assert possessory rights over the disputed portion. Their claim and the extent of their alleged possession would necessarily require adjudication upon a full-fledged trial.

17. At the interlocutory stage, the Court is required to assess the prima facie case, balance of convenience and the likelihood of irreparable injury. On a consideration of the material presently available on record, this Court is of the view



CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

that the prima facie case and balance of convenience lean in favour of the plaintiff, particularly having regard to the title documents executed by the BDA.

18. The plaintiff has not merely relied upon his sale deed and rectification deed, but has also placed before the Court the plaint and judgment in O.S.No.3600/1984, admittedly instituted by the father of defendant No.1, namely, B. Pilla Reddy. The judgment in the said proceedings records findings concerning acquisition of the land in Survey No.255 and the status of the BDA in respect thereof.

19. The material on record also indicates that the entire extent of Survey No.255, including the portion described as Survey No.341, was subject to acquisition for formation of the layout. These circumstances constitute relevant prima facie material which could not have been brushed aside while considering the application for temporary injunction.

20. There is yet another significant circumstance. This Court, by order dated 17.03.2017, had granted interim injunction in MFA No.2166/2017 in favour of the plaintiff, which



CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

order has continued to operate against defendants No.1 and 2 since 2017. It is also not in dispute that no application seeking vacation of the said interim order has been filed till date.

21. Having regard to the cumulative effect of the aforesaid circumstances, this Court is of the view that the learned Trial Judge was not justified in rejecting I.A.No.I filed by the plaintiff under Order XXXIX Rules 1 and 2 of CPC. The impugned order, therefore, warrants interference.

Accordingly, MFA No.2166/2017 deserves to be allowed.

In MFA No.2167/2017 — Injunction granted in O.S.No.4844/2016

22. In view of the conclusions recorded hereinabove, the order granting temporary injunction in favour of defendants No.1 and 2 in O.S.No.4844/2016 cannot be permitted to continue. This Court had already stayed the operation of the order granting injunction in favour of defendants No.1 and 2 by order dated 27.07.2017. Further, by the present order, this Court has allowed the application filed by the plaintiff in O.S.No.4441/2016 and directed that defendants No.1 and 2 shall be restrained from interfering with the plaintiff's

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

possession pending disposal of the suit. Continuation of the injunction granted in favour of defendants No.1 and 2 in O.S.No.4844/2016 would, in the circumstances, be inconsistent with the order now passed in the connected proceedings. The said order, therefore, also warrants interference.

Accordingly, MFA No.2167/2017 deserves to be allowed.

23. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) W.P.No.62989/2016 is ***allowed***.

(ii) The order dated 01.12.2016 passed on I.A.No.4/2016 filed under Order VI Rule 17 of CPC is set aside. Consequently, I.A.No.4/2016 stands allowed.

(iii) The plaintiff is permitted to incorporate the proposed amendment in the plaint. The plaintiff shall serve a copy of the amended plaint upon the defendants. The defendants are at liberty to file an additional written

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

statement confined to the amended portion of the plaint,
in accordance with law.

(iv) Consequently, MFA No.2166/2017 filed by the plaintiff is allowed. The order dated 07.02.2017 passed on I.A.No.I in O.S.No.4441/2016 is set aside. I.A.No.I filed under Order XXXIX Rules 1 and 2 of CPC stands allowed. Defendants No.1 and 2 are restrained from interfering with the plaintiff's possession over the suit schedule property, pending disposal of the suit, subject to the final adjudication in the suit.

(v) Consequently, MFA No.2167/2017 is allowed. The order dated 07.02.2017 granting temporary injunction in favour of defendants No.1 and 2 in O.S.No.4844/2016 is set aside.

(vi) It is made clear that any observation made by this Court in the course of this order is confined to the consideration of the interlocutory applications and the order impugned in the respective proceedings and shall

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CNR: KAHC010256752017

NC: 2026:KHC:51774
MFA No. 2167 of 2017
C/W MFA No. 2166 of 2017
WP No. 62989 of 2016

not influence the learned Trial Court while adjudicating
the suits on their merits.

All contentions of the parties are kept open.

Pending interlocutory applications, if any, stand disposed
of accordingly.

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(SACHIN SHANKAR MAGADUM)
JUDGE

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List No.: 1 Sl No.: 25