



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 11866 OF 2026 (GM-CPC)

BETWEEN:

SMT. GEETHA,
DAUGHTER OF CHELUVAIAH,
AGED ABOUT 46 YEARS,
RESIDING AT KHATHA NO.3/3,
WARD NO.129,
MALLATHAHALLI VILLAGE,
BENGALURU - 560 056.

...PETITIONER

(BY SRI. SRIDHARA N., ADVOCATE)

AND:

1. SRI. JAGADISH,
S/O. GANGAPPA,
AGED ABOUT 63 YEARS,
RESIDING AT NO.6,
11TH CROSS, RAMAKRISHNAIAH LAYOUT,
MALAGALA MAIN ROAD,
NAGARABHAVI 2ND STAGE,
BENGALURU - 560 091.
2. SRI. CHELUVAIAH,
AGED ABOUT 60 YEARS,
RESIDING AT KHATHA NO.3/3, 4,
WARD NO.129,
MALLATHAHALLI VILLAGE,



YESHWANTHAPURA HOBLI,
BENGALURU - 560 091.

3. NGEF EMPLOYEES HOUSE BUILDING
CO-OPERATIVE SOCIETY LTD.,
NO.215, 1ST FLOOR, TENT ROAD,
SHESHADRIPURAM,
BENGALURU - 560 026.
REPRESENTED BY ITS SECRETARY.
REGISTERED UNDER CO-OPERATIVE
SOCIETY ACT.

...RESPONDENTS

(BY SRI. RAVISHANKAR S., ADVOCATE FOR R1;
SRI.K.P.BHUVAN, ADVOCATE FOR R3)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO SETTING ASIDE THE
ORDER DATED 12.01.2026 (ANNX-A) PASSED ON IA NO. VIII
UNDER ORDER VI RULE 10 OF THE CPC 1908 IN OS NO.
8252/2015 PENDING ON THE FILE OF XXV ADDL. CITY CIVIL
AND SESSIONS JUDGE AT BENGALURU (CCH-23) AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order dated 12.01.2026 passed on I.A.
No.VIII in O.S.No.8252/2015 by XXV Addl. City Civil and
Sessions Judge at Bengaluru (CCH-23), defendant
No.3/petitioner is before this Court.



2. The respondents herein have filed a suit for mandatory and permanent injunction. In the suit, which is of the year 2015, an application was filed on 05.04.2023 under Order VI Rule 17 r/w Section 151 of CPC seeking amendment of the plaint. The suit seeks a mandatory injunction only against defendant No.1. Now, he seeks to amend the prayer and also to include defendant No.3. The Court, by the impugned order, has allowed the said application. While allowing the application, the Court has imposed costs of Rs.2,000/- and has also taken note of the fact that the plaintiff has gifted the property in favour of his daughter on 16.04.2022. Suppressing the said fact, the present application is filed, and she was already brought on record through her application filed under Order XXII Rule 10. However, observing that it is a public road and there is an encroachment, the Court has allowed the application filed under Order VI Rule 17, imposing costs of Rs.2,000/-.

3. Learned counsel appearing for the petitioner/defendant No. 3 submits that when the petitioner has no locus to file this application and no subsisting interest in the



property, the Court ought not to have allowed this application. It is submitted that the Court has observed suppression of facts, as in the 2023 application, he failed to mention the Gift Deed that had taken place in the year 2022. It is further submitted that the said relief of mandatory injunction is also barred by limitation, and all these aspects were not considered by the Court.

4. Learned counsel appearing for respondent No.1, who is the plaintiff in the suit, submits that he has gifted the property in favour of his daughter. In fact, by the time this application was filed, she was not brought on record, and even now, after allowing the application, as there was stay of all further proceedings, she could not be brought on record. It is submitted that, according to the counsel for the petitioner, such a relief cannot be sought by respondent No.1. But at the same time, his daughter cannot be precluded from making such an application and this Court may keep the said option to the plaintiff No.2. In fact, it is clearly stated that, in respect of defendant No.1, they have already sought a mandatory injunction. Defendant No.1 has released in favour of defendant



No.3. Hence, the very same relief is being sought against defendant No.3, and no prejudice would be caused to defendant No.3.

5. Having heard the counsels on either side, perused the material on record. The Court, while considering the application under Order VI Rule 17, particularly in view of the encroachment on the road, rightly allowed the application with costs of Rs.2,000/-. This Court finds force in the argument of the learned counsel for the petitioner that when he has gifted away the property in favour of the daughter, he has no substantive interest in the property. And there is no cause of action for him to file this application. At the same time, this Court cannot lose sight of the fact that plaintiff No. 2, who is the daughter, can always question the same. In view of the interim stay granted by this Court in the connected matter, i.e., W.P.No.7802/2026, the necessary amendments were not carried out.

6. Considering the submissions of counsel on either side and balancing the interests of both the parties, this Court is passing the following:



ORDER

- i. The order passed on I.A. No.VIII in O.S.No.8252/2015 dated 12.01.2026 by the XXV Addl. City Civil and Sessions Judge at Bengaluru (CCH-23) is ***set aside*** as the plaintiff has already gifted away the property in favour of plaintiff No.2. who is impleaded on an application filed under Order XXII Rule 10 r/w Section 151 of CPC.
- ii. This Order will not come in the way of the plaintiff No.2 from seeking any relief and that will be independently considered by the Court on the merits of the matter.
- iii. Accordingly, the writ petition is ***disposed of***.
- iv. Pending I.As if any, in the petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

PSJ
List No.: 1 Sl No.: 27