



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.12598 OF 2026 (GM-POLICE)

BETWEEN:

1. SMT.NAGARATHNA
WIFE OF SRI.MAHADEVAIAH
D/O LATE S.R.GOWDA
AGED ABOUT 69 YEARS
RESIDING AT
BYRASANDRA VILLAGE
HARALURU POST, GULURU HOBLI
TUMAKURU DISTRICT
2. SMT.LEELAVATHI
WIFE OF B.RAJANNA
D/O LATE S.R.GOWDA
AGED ABOUT 67 YEARS
RESIDING AT
BYRASANDRA VILLAGE
HARALURU POST, GULURU HOBLI
TUMAKURU TALUK-572 104
TUMAKURU DISTRICT

Digitally
signed by
CHANDRA A
Location:
HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI.FAYAZ SAB B G, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF HOME
VIDHANA SOUDHA
BENGALURU-560 001



2. THE SUPERINTENDENT OF POLICE
TUMAKURU DISTRICT
NEAR SREE SIDDAGANA INSTITUTE OF TECHNOLOGY
TUMAKURU-572 102.
3. SUB INSPECTOR OF POLICE
KYATHASANDRA POLICE STATION
RING ROAD/BYPASS
KYATHASANDRA
TUMAKURU DISTRICT-572 131
4. SRI.RUDRESH
SON OF LATE SHIVANNA
AGED ABOUT 56 YEARS
RESIDING AT BYRASANDRA VILLAGE
GULUR HOBLI-572 118
TUMAKURU DISTRICT
5. SRI.SHIVAKUMAR
SON OF SHIVANNA
AGED ABOUT 51 YEARS
RESIDING AT BYRASANDRA VILLAGE
HARALURU POST
GULURU HOBLI
TUMAKURU TALUK-572 104
TUMAKURU DISTRICT
6. SRI.LOKESH
SON OF SHIVANNA
AGED ABOUT 47 YEARS
RESIDING AT BYRASANDRA VILLAGE
HARALURU POST
GULURU HOBLI
TUMAKURU TALUK-572 104
TUMAKURU DISTRICT

...RESPONDENTS

(BY SRI.K.P.YOGANNA, AGA FOR R.1 TO R.3)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO THE CASE AND GRANT THE FOLLOWING RELIEF(S) I) TO ISSUE A WRIT OF MANDAMUS, IN THE NATURE OF ORDER OR DIRECTION, DIRECTING THE RESPONDENT NOS.2 AND 3 TO INITIATE STERN/STRINGENT ACTION AGAINST THE CULPRITS/RESPONDENT NOS.4 TO 6 WHO ARE ILLEGALLY TRYING TO DISPOSES OR DISTURB THE PEACE AND TRANQUILITY IN THE LOCALITY BY VIOLATING THE ORDER DATED 12.09.2024 PASSED IN W.P.NO.24876/2024 (GM-CPC), WHICH ARE PRODUCED AND MARKED AS ANNEXURE-T AND COMPLAINTS DATED 30.03.2026 AND 31.03.2026 SUBMITTED BY THESE PETITIONERS, WHICH ARE PRODUCED AND MARKED AS ANNEXURES-U AND W, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

This petition is filed seeking a writ in the nature of mandamus directing respondent Nos.2 and 3 to initiate action against respondent Nos.4 to 6 on the premises that they are illegally trying to dispose or disturb peace and tranquility in the locality by violating the order dated



12.09.2024 passed by this Court in W.P.No.24876/2024 (GM-CPC) as per Annexure-T.

2. The present writ petition is instituted on the premise that the learned Trial Court, while entertaining the suit in O.S.No.621/2024, has not adverted to the application filed by the petitioner under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short "CPC") and has merely ordered issuance of suit summons, without considering the prayer for grant of *ad-interim ex-parte* temporary injunction. It is in this background that the petitioner approached this Court. This Court, while issuing notice in the earlier round of litigation as reflected in the extracted order dated 12.09.2024 (Annexure-T), having regard to the grievance then projected, was pleased to grant a limited and purely *ad-interim* protection by directing the private respondents not to interfere with the suit schedule property till the next date of hearing.



"ORAL ORDER

Issue notice to the respondents.

Learned counsel for the petitioners submit that the petitioners have filed a suit in O.S.No.621 of 2024 before the learned Principal Civil Judge and JMFC at Tumakuru.

An application under Order XXXIX Rule 1 and 2 of CPC seeking ad-interim ex-parte temporary injunction has not been considered by the Trial Court ad on the other hand, only notice has been issued.

Learned counsel submits that the petitioners have stated in the plaint that their father late Shri S.R.Gowda was granted occupancy rights in respect of the suit schedule properties and his name was entered in the revenue records. After the death of Shri.S.R.Gowda, necessary applications were filed by the petitioners claiming to be the legal representatives of Shri.S.R.Gowda and accordingly, the katha was mutated in favour of the petitioners. The order passed by the Tahsildar was questioned by the respondents before the Assistant Commissioner, Deputy Commissioner and before this court. Nevertheless, the name of the petitioners have been entered in the revenue records, as could be seen from Annexure-Q series. That being the position, when interference was alleged by the petitioners, the Trial Court should have passed in order of ex-parte temporary injunction restraining the defendants.



*The respondents are directed not to interfere with
the suit schedule property till the next date of hearing."*

(Emphasis supplied)

3. However, a careful reading of the extracted order dated 12.09.2024 would clearly indicate that the said order was passed at a nascent stage of the proceedings and does not, in any manner, amount to an adjudication of rights *inter se* between the parties. The observations made therein are only *prima facie* in nature and the protection granted is purely temporary, *ex parte* and intended to operate as an interim arrangement pending consideration of the matter by the competent Civil Court. The said order cannot be construed as conferring any indefeasible or enforceable right upon the petitioner so as to bypass the statutory mechanism available under the CPC.

4. It is trite that an application filed under Order XXXIX Rules 1 and 2 of the CPC is required to be



considered by the Trial Court on its own merits, upon affording an opportunity to the contesting parties, and any grievance arising out of non-consideration or delay in adjudication of such interlocutory application has to be addressed within the framework of the civil proceedings itself. In the present case, the suit is of the year 2024 and the interlocutory application is stated to be pending consideration. If the petitioner is aggrieved by the inaction or delay on the part of the Trial Court, the proper course would be to press the said application for hearing and seek appropriate orders in accordance with law.

5. This Court is of the considered view that the limited protection granted earlier by this Court appears to have dissuaded the petitioner from diligently prosecuting the interlocutory application before the Trial Court. Such a course is impermissible.



Interim orders passed by this Court in writ jurisdiction, particularly *ex-parte* in nature, cannot be allowed to substitute or supplant the adjudicatory function of the Civil Court. The petitioner cannot be permitted to indefinitely rely on such ad-interim protection without seeking a conclusive determination of his rights before the competent forum.

6. In that view of the matter, this Court deems it appropriate to relegate the petitioner to avail the remedy before the Trial Court by pressing for consideration of the application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. It is only upon adjudication of the said application and grant of an order of temporary injunction, if any, that the petitioner would acquire a legally enforceable right capable of being protected in accordance with law.



7. In the light of the foregoing discussion, this Court is of the opinion that no further indulgence is warranted in the present writ petition. The petition, being premature and misconceived in the absence of adjudication by the Trial Court on the interlocutory application, is liable to be dismissed.

8. For the foregoing reasons, this Court proceeds to pass the following;

ORDER

(i) The writ petition stands ***dismissed.***

(ii) However, liberty is reserved to the petitioner to press for expeditious hearing and disposal of the interlocutory application filed under Order XXXIX Rules 1 and 2 of the CPC in O.S.No.621/2024.



(iii) The Trial Court is expected to consider and dispose of the said application, as expeditiously as possible, having regard to the urgency ordinarily attached to such reliefs.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE