



CNR: KAHC010330382026

NC: 2026:KHC:44324
MFA No. 3444 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 3444 OF 2026 (CPC)

BETWEEN:

1. SMT. KAVITHA R
W/O. SRI. M.G. LOKESH,
AGED ABOUT 49 YEARS,
R/AT NO.169A/1,
GANESH KAMAL NILAYA,
MADHUVANA BLOCK,
WARD NO.15, MANGO GARDEN,
SAMRUDHI BOYS PG,
CHRISTIAN COLONY,
CHIKKAMAGALUR-577101.
2. SRI. VISHWASAGARA SARANGAMATH,
S/O. SHANTHAVEERAIAH,
AGED ABOUT 28 YEARS,
R/AT NO.1252/31, 2ND FLOOR,
1ST A MAIN ROAD,
MC LAYOUT RAHEJA PARK,
VIJAYANAGARA,
BENGALURU-560040.
3. SMT. S. ANITHA SRINIVAS,
W/O. SRI. S.V. SRINIVAS,
AGED ABOUT 42 YEARS,
R/AT BEVINAMARADA ROAD,
VEDAVATHINAGARA,
SHUGAR FACTORY,

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



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HIRIYURU,
CHITRADURGA-577599.

4. SRI. MALLESHAPPA THUNGALA,
S/O. SRI. LAKSHMAN,
AGED ABOUT 64 YEARS,
R/AT NO.993, WARD NO.26,
KUMBARGALLI, RABAKAVI,
BAGALKOTE-587314.
5. SRI. M. NEELAKANTA NAIDU,
AGED ABOUT 41 YEARS,
S/O. SRI. M. NARASIMHALU NAIDU,
RESIDING AT NO.178, 4TH FLOOR,
NANDHI GOAL APARTMENT,
6TH CROSS, DWARAKANAGAR,
CHANNASANDRA,
BANGALORE-560098.
6. SRI. MOHAMMED ZAIN,
AGED ABOUT 30 YEARS,
S/O. SRI. MOHAMMED YAHYA
SHABANDRI,
RESIDING AT NO.357,
RUBY MANSION,
NAWAYAT COLONY, BHATKAL,
KARNATAKA-581320.

...APPELLANTS

(BY SRI. SHARATH S. GOWDA, ADVOCATE)

AND:

1. MRS. PRATHIMA HARESH
W/O. MR. C. HARESH KUMAR,
AGED ABOUT 56 YEARS,
R/AT NO.16153,
BRIDGEPARK DRIVE,



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LITHIA, FLORIDA - 33547
UNITED STATES OF AMERICA

REPRESENTED BY
HER GPA HOLDER
MR. P. RAVI,
S/O. SRI. PERUMAL. P,
AGED ABOUT 64 YEARS,
R/AT NO.1, 1ST FLOOR, NO.3041,
AKSHAYA NILAYA, 14TH CROSS,
SHASTRINAGAR MAIN ROAD,
BSK 2ND STAGE,
BENGALURU-560070.

2. SMT. LALITHAMMA,
W/O, LATE NARAYANAPPA,
AGED ABOUT 53 YEARS,
R/AT MYLASANDRA VILLAGE,
R.V. COLLEGE POST,
KENGARI HOBLI,
BANGALORE-560059.
3. SRI. MUNIRAJU N,
S/O. LATE NARAYANAPPA,
AGED ABOUT 33 YEARS,
R/AT MYLASANDRA VILLAGE,
R.V. COLLEGE POST,
KENGARI HOBLI,
BANGALORE-560059.
4. SRI. NAGARAJ. N,
S/O. LATE NARAYANAPPA,
AGED ABOUT 29 YEARS,
R/AT MYLASANDRA VILLAGE,
R.V. COLLEGE POST,
KENGARI HOBLI,
BANGALORE-560059.



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5. SRI. VENUGOPAL N,
S/O. LATE NARAYANAPPA,
AGED ABOUT 27 YEARS,
R/AT MYLASANDRA VILLAGE,
R.V. COLLEGE POST,
KENGARI HOBLI,
BANGALORE-560059.

...RESPONDENTS

(BY SRI. C.K. NANDAKUMAR, SENIOR COUNSEL A/W
SRI. SHREEDHARA B.E., ADVOCATE FOR R1;
NOTICE TO REMAINING RESPONDENTS IS
DISPENSED WITH VIDE ORDER DATED 07.05.2026)

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DATED 29.04.2026 PASSED ON
IA NO.4/2026 IN O.S.NO.2996/2024 ON THE FILE OF THE
C/C XXXVII ACC AND SJ BENGALURU, ISSUING INTERIM
ORDER AND NOTICES TO THE PROPOSED DEFENDANT NO.5 TO
10 ON IA.NO.4/2026 FILED U/O.39 RULE 1 AND 2 OF CPC,
1908.

THIS APPEAL, COMING ON FOR ORDERS, 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 the appellants, who are the proposed defendant Nos.5 to 10, against respondent No.1-plaintiff and respondent Nos.2 to 5-defendant Nos.1 to 4 being aggrieved by the impugned order passed on I.A.No.4/2026 filed by the plaintiff, whereby the trial Court directed the proposed defendant Nos.5 to 10 to maintain an order of status quo on I.A. schedule property.

2. Parties to the proceedings shall be referred to as per their status in the trial Court as plaintiff and proposed defendant Nos.5 to 10, for the sake of brevity.

3. The plaintiff had filed I.A.No.4/2026 by annexing certain documents and taking up a contention that the proposed defendant Nos.5 to 10, whose application was pending for consideration before the trial Court, were making hectic efforts to put up construction in the suit schedule property and therefore, sought for an ad-interim ex-parte order of temporary injunction prior to them coming on record. Based



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on the said application and the submissions and photographs that were produced before the Court, the learned trial Judge passed an order directing the proposed defendant Nos.5 to 10 to maintain an order of status quo on I.A. schedule property till the next date of hearing.

4. It is the vehement contention of learned counsel Sri Sharath S.Gowda for the appellants that the impugned order passed by the trial Judge is perverse, illegal and arbitrary. It is also contended that the trial Court had rejected the application filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC as against the existing defendant Nos.1 to 4 and therefore, it becomes *functus officio* and cannot review its own order when it had already come to a conclusion while dismissing the earlier application-I.A.No.1/2024 by holding that the plaintiff had not made out a *prima facie* case for grant of discretionary order of temporary injunction as against the existing defendant Nos.1 to 4. Under the circumstances, it is his contention that once the trial Court came to a conclusion holding no *prima facie* case having been made out by the plaintiff, the trial Court could not have granted an order of



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status quo against the proposed defendant Nos.5 to 10, who are not arrayed and impleaded as parties to the proceedings. It is also contended by learned counsel that there are no changed circumstances that are portrayed different from the one that was urged and argued on I.A.No.1/2024 filed under Order XXXIX Rule 1 and 2 of CPC. It is also contended by learned counsel that the trial Court had in fact come to a conclusion that the plaintiff had failed to identify and locate the suit schedule property and that the defendants are in possession of the suit schedule property. Therefore, it held that the plaintiff not being in possession of the suit schedule property, she is not entitled for an order of temporary injunction while deciding I.A.No.1/2024. However, the question of allowing I.A.No.4/2026 on the same set of facts as against the proposed defendant Nos.5 to 10 is illegal, perverse and arbitrary as there was no changed circumstances.

4.1. It is also the vehement contention of learned counsel for the appellants that admittedly, the appellants-proposed defendant Nos.5 to 10 were not impleaded and not arrayed as parties while the impugned order came to be



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passed. Therefore, there cannot be any order passed against parties, who are not yet impleaded in the suit and to bind them by such an order without even providing an opportunity of hearing. It is also contended that respondent No.1-plaintiff has suppressed material facts and therefore, the impugned order is liable to be set aside and reversed.

4.2. It is also the contention of learned counsel for the appellants that they are the absolute owners by virtue of a registered sale deed and they have obtained a necessary license, temporary electricity connection, they have already put a foundation in the property, construction materials are brought and kept in the suit schedule property. Therefore, the impugned order has now halted the construction activity which causes irreparable injury and hardship to the appellants. On the contrary, there would not be such hardship as against the plaintiff, if the construction is continued. It is also further contended that when the plaintiff has failed to make out a *prima facie* case, the question of venturing into further to decide the balance of convenience and hardship would not be required as held by the the Hon'ble Apex Court in the case of



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Mandali Ranganna and others vs. T.Ramachandra and other reported in ***(2008) 11 SCC 1.***

4.3. Learned counsel for the appellants further contends that pursuant to the impugned order being passed on 29.04.2026, the appellants had moved this Court challenging the said order and by order dated 07.05.2026, this Court stayed the order of the trial Court. It is further submission of learned counsel that as on today, the appellants have already put up construction of ground plus two floors. Therefore, further restraining the appellants from putting up construction would cause more hardship to the appellants rather than the plaintiff. On these grounds, he seeks to allow the appeal and consequently, to set aside the impugned order.

5. *Per contra*, learned Senior Counsel Sri C.K.Nandakumar appearing on behalf of learned Counsel Sri Shreedhara.B.E., for respondent No.1-plaintiff vehemently contends that there is no illegality or perversity in the order passed by the learned trial Judge as I.A.No.4/2026 came to be filed pursuant to the orders passed on I.A.No.1/2024 and it was



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specific to the proposed defendant Nos.5 to 10. It is further contended to be true that the appellants were yet to be impleaded in the suit proceedings, but since they have purchased the property from defendant Nos.1 to 4, they were acting at the behest of defendant Nos.1 to 4 and making attempts to put up construction and as on date of filing the said application, the suit schedule property was a vacant/empty site and there was an old shed, which was existing in the suit schedule property, which has been demolished and the construction activities were subsequently put up. Therefore, he contends that there is a violation and disobedience of the orders of the trial Court, where the trial Court had directed the appellants-proposed defendant Nos.5 to 10 to maintain *status quo* with regard to I.A. schedule property.

5.1. It is also contended by learned Senior Counsel that in pursuance thereto, after obtaining an order of stay of the trial Court order from this Court, the appellants have proceeded in a war footing manner to put up construction of ground plus two floors. This itself apparently establishes the fact that the appellants are intending to construct further, which may cause



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hardship and inconvenience and would be detrimental to the interest of the plaintiff, in case the plaintiff succeeds in the suit. It is also further contended by learned counsel that the appellants have put up construction and putting up further construction in the suit schedule property is itself sufficient enough for this Court to pass an order to maintain *status quo* till the application is decided by the trial Court by reconsidering the application once again by permitting the appellants to contest the matter by filing the detail objections. On these grounds, he seeks to dismiss the appeal on the ground that there is no illegality or perversity in the order passed by the trial Court.

6. I have heard learned counsel for the appellants-the proposed defendant Nos.5 to 10 and learned Senior counsel for respondent No.1-plaintiff.

7. There is no dispute to the fact that the suit came to be filed by the plaintiff for the relief of bare injunction initially. It is also not in dispute that an application-I.A.No.1/2024 filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC against



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the then existing defendant Nos.1 to 4 came to be rejected holding there was no *prima facie* case made out by the plaintiff. Subsequently, the application in question I.A.No.4/2026 came to be filed as against the appellants-proposed defendant Nos.5 to 10 restraining them from putting up further construction in the suit schedule property. It is also a matter of record that on the appellants approaching this Court, the order of the trial Court came to be stayed by order dated 07.05.2026 by this Court. It is also not in dispute that the appellants were not arrayed as parties when the impugned order came to be passed.

8. It is now submitted across the bar by learned Senior Counsel appearing for the plaintiff that an impleading application that was filed to implead the appellants as proposed defendant Nos.5 to 10 is allowed and they are impleaded as defendant Nos.5 to 10. They are now parties before the trial Court as defendant Nos.5 to 10. It is also submitted that in pursuance to the construction activity having undertaken by the appellants-defendant Nos.5 to 10, the plaintiff has filed an application for amendment of his pleadings, which is yet to be



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considered and the same is pending adjudication before the trial Court.

9. Apparently, it is seen that construction activity has already come to a stage of ground plus two floors by the appellants-defendant Nos.5 to 10, which is not disputed by the plaintiff as well. The appellants are already arrayed as parties by virtue of an order of the trial Court, but they are yet to file the written statement and objections to the interlocutory application. They were not heard as they were not parties and it was an ad-interim ex-parte order. It would be required for the trial Court to hear the appellants-defendant Nos.5 to 10 on the said application filed for restraining the proposed defendant Nos.5 to 10 from putting up any construction over the suit schedule property. Therefore, keeping all these factual aspect, the trial Court will have to reconsider the application I.A.No.4/2026 filed by the plaintiff by providing an opportunity to the appellants-defendant Nos.5 to 10 by taking their objections on record and also by providing an opportunity of hearing them and pass suitable orders on the said application.



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10. It is needless to mention that the trial Court also would have to take into consideration that the construction of the ground plus two floors are already put up by the appellants-defendant Nos.5 to 10. Therefore, in effect, I.A.No.4/2026 would not survive for consideration as it was filed for restraining defendant Nos.5 to 10 from putting up any constructions over defendant Nos.1 to 4 created Schedule property. In view of the subsequent events that have transpired pursuant to the order being passed by the trial Court, which is not in dispute by respondent No.1-plaintiff, the I.A.4/2026 would become redundant for consideration anymore. However, liberty would have to be given to the plaintiff to file fresh application, if so advised and upon such application being filed, the same shall be considered in accordance to law. However, this Court is of the opinion at this stage that in view of the fact that there was an interim order passed by the trial Court as against the appellants who are now impleaded as defendant Nos.5 to 10, an order of status quo of the external structure as it stands today shall be maintained for a period of 15 days.



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11. Learned counsel for the appellants submits that though the appellants have put up construction, they have not violated any of the orders of the trial Court as there was an order of stay granted by this Court on 07.05.2026. Learned counsel also gives an undertaking before this Court that the appellants-defendant Nos.5 to 10 would not claim equity with regard to the constructions made and also they would co-operate with the speedy disposal of the suit.

12. In view of the discussions made herein above, this Court deems it appropriate to pass the following:

ORDER

- i) This appeal is ***allowed***.
- ii) The impugned order dated 29.04.2026 is set aside in view of subsequent events that have transpired pursuant to the date of the order and as on date of passing this order.
- iii) The plaintiff is at liberty to file necessary application, if so advised, against defendant Nos.5 to 10 and if any such application is filed, an opportunity shall be given to defendant



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Nos.5 to 10 to defend their application and put forth their say.

- iv) The trial Court is at liberty to pass suitable orders without being influenced by any of the observations made by this Court in this appeal.
- v) This Court has not expressed any opinion with regard to any disobedience or violation of the order of the trial Court dated 29.04.2026. The same shall be dealt with by the trial Court, if required, in accordance to law.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

VM
List No.: 1 SI No.: 0