



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 3589 OF 2026 (CPC)

BETWEEN:

1. A. PRABHAKAR NAIDU
SON OF LATE PAPANNA
AGED ABOUT 60 YEARS
RESIDING AT MUDIGUBBA
VILLAGE AND MANDAL
ANANTHAPURA DISTRICT
ANDHRA PRADESH - 515 111.

ALSO AT C/O. B.N. RAMACHANDRA
PLOT NO.5, NO.40, 2ND CROSS
PANDURANGA NAGAR
GANESHA MANOR
BENGALURU - 560 076.

PAN: DFQPP8833C
AADHAAR: 9199 9113 2878.

2. K. VENKATESWARA BABU
SON OF LATE K. REDDEMMA
AGED ABOUT 64 YEARS
RESIDING AT APARTMENT NO.1903
THE FIRST BY DSR, OPPOSITE
BIO DIVERSITY PARK, RAYADURG,
HYDERABAD - 500 034.
PAN: AEOPK6288C
AADHAR: 7174 5020 2362.

...APPELLANTS

(BY SRI ADITYA CHATTERJEE, ADVOCATE, MS. NIKITHA
SURABHI, ADVOCATE AND SRI NUMAIR FAROOQ,
ADVOCATE FOR SRI RISHAB D. DESAI, ADVOCATE)



AND:

1. M/S. SRI BALAJI INFRA BUILDERS
A REGISTERED PARTNERSHIP FIRM
HAVING ITS OFFICE AT SY.NO.4/1
KODIGEHALLI MAIN ROAD
KODIGEHALLI, K.R.PURAM
BANGALORE -560 036
PAN: AEJFS5302
REPRESENTED BY ITS PARTNER
AGED ABOUT 47 YEARS
AND BY ITS PARTNER
MR. A. RAMAPPA, S/O. ANJAPPA
AGED ABOUT 47 YEARS
MR. M. KRISHNAPPA
S/O. MUNIVENKATAPPA
AGED ABOUT 50 YEARS.
2. SEENAPPA C.
SON OF CHIKKA PAPANNA
AGED ABOUT 49 YEARS
RESIDING AT BACHAHALLI VILLAGE
KOTHANUR POST
SHIDLAGATTA TALUK
CHIKKABALLAPURA DISTRICT - 562 105.
3. M.N. SAVITHA KUMARI
DAUGHTER OF M.N. NATARAJ
AGED ABOUT 41 YEARS
RESIDING AT MACHANAYAKANAHALLI
BINDIGANAVILE HOBLI
MANDYA DISTRICT - 571 802.

...RESPONDENTS

(BY SRI SRIKANTH K., ADVOCATE AND SRI JITTO JOSEPH,
ADVOCATE FOR R1;
VIDE ORDER DATED 24.06.2026, NOTICE TO R2 AND R3 IS
DISPENSED)

THIS MFA IS FILED UNDER ORDER XLIII RULE 1(R) OF
CPC, PRAYING TO SET ASIDE THE ORDER DATED 22.05.2026



PASSED ON I.A.NO.2 IN OS.NO.3597/2026 BY X ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU.

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

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

This appeal is preferred by the appellants-defendant Nos.1 and 2 challenging the impugned order dated 22.05.2026 passed on I.A.No.2 in O.S.No.3597/2026 by X Additional City Civil and Sessions Judge, Bengaluru, whereby the trial Court granted an ad interim order of temporary injunction restraining the defendants from interfering with the possession of the plaintiff over the suit schedule property until the next date of hearing.

2. Parties shall be referred to as per their ranking before the trial Court.

3. It is the vehement contention of learned counsel for appellants-defendant Nos.1 and 2 that the impugned order passed by the trial Court is illegal, arbitrary and



contrary to the well-settled principles governing the grant of temporary injunction under Order XXXIX Rules 1 and 2 of CPC. It is further contended that the impugned order is liable to be set aside on the ground that plaintiff has deliberately suppressed material facts, has not approached the Court with clean hands and has played fraud upon the Court. It is also contended by the learned counsel that the plaintiff mislead the trial Court by misrepresenting material facts in the application for temporary injunction and on the basis of such misrepresentation and suppression, obtained the impugned order, which therefore deserves to be set aside.

3.1 It is further contended by learned counsel for appellants-defendant Nos.1 and 2 that the suit for bare injunction, as instituted by the plaintiff, is not maintainable at the outset, as the plaintiff has neither any right, title nor interest in the suit schedule property. It is submitted that even the principal of the plaintiff, who is stated to have executed the Joint Development Agreement (for



short, 'JDA'), had no valid right, title or interest in the suit schedule property. Therefore, the plaintiff cannot claim any right to enter upon or put up construction in the suit schedule property on the strength of the said JDA.

3.2 It is further contended that in fact, the executants of JDA had already suffered a decree in O.S.No.1182/2014, instituted by defendant Nos.1 and 2, which came to be decreed by judgment and decree dated 16.03.2017. Thereafter, the very same executants of JDA, under whom the plaintiff claims, instituted O.S.No.1373/2016 against defendant Nos.1 and 2. The said suit also came to be dismissed by judgment and decree dated 20.03.2024. Consequently, it is submitted that the plaintiff, claiming under the said executants, cannot assert any better right than its principals.

3.3 It is also contended by learned counsel for appellants-defendant Nos.1 and 2 that the aforesaid judgments and decrees have attained finality, as the same



have not been challenged before any appropriate Forum. It is submitted that the dismissal of O.S.No.1373/2016, instituted by the purported landowners, namely, the executants of JDA, has become final. Further, no steps have been taken to restore the said suit after its dismissal. Consequently, it is contended that the plaintiff, claiming through the said executants, cannot assert any right contrary to the judgments that have attained finality.

3.4 It is also contended by learned counsel for appellants-defendant Nos.1 and 2 that defendant Nos.1 and 2 have instituted O.S.No.973/2026 against the plaintiff as well as the executants of JDA. In the said suit, the competent Court, by order dated 30.04.2026, granted an interim order restraining the defendants therein from alienating the suit schedule property or altering its nature. It is further submitted that the said interim order was duly communicated in compliance with the provisions of Order XXXIX Rule 3 of CPC and copies of the order along with the relevant documents were served on all the



respondents, including the present respondent No.1-plaintiff on 06.05.2026. Defendant Nos.1 and 2 have produced the postal acknowledgements evidencing due service of the said order before this Court. The same is perused.

3.5 It is further contended by learned counsel for appellants-defendant Nos.1 and 2 that despite having received the communication and being fully aware of the interim order dated 30.04.2026 passed in O.S.No.973/2026, as well as the pendency of the said suit instituted against the plaintiff and the executants of JDA, the plaintiff, namely, M/s. Sri Balaji Infra Builders, represented by its Partner, proceeded to institute the present suit for bare injunction on 22.05.2026. It is submitted that the chronology of these events is of considerable significance in appreciating the conduct of the plaintiff. According to the learned counsel for appellants-defendant Nos.1 and 2, the plaintiff, despite having prior knowledge of the earlier proceedings and the subsisting



interim order, suppressed these material facts before the trial Court, projected an artificially imaginary sense of urgency and thereby succeeded in obtaining the impugned ad interim order of temporary injunction. The sequence of dates, according to defendant Nos.1 and 2, is crucial for determining whether the plaintiff approached the Court with clean hands and made a full and fair disclosure of all material facts.

3.6 Learned counsel for appellants-defendant Nos.1 and 2 has also advanced several other contentions, drawing the attention of this Court to the alleged suppression of material documents, including registered sale deeds, suppression of material facts and the fraud allegedly perpetrated by the plaintiff in obtaining the ad interim order of temporary injunction. It is contended that these material facts and documents were not disclosed to the trial Court at the time of seeking an ex parte interim relief, thereby vitiating the impugned order. Aggrieved by the said order, the appellants-



defendant Nos.1 and 2 have preferred the present appeal, in which this Court, by order dated 02.06.2026, directed the parties to maintain *status quo*.

3.7 Learned counsel for appellants, placing reliance on the judgments of the Hon'ble Apex Court, contends that the impugned order is contrary to the settled principles of law governing the grant of temporary injunctions and therefore, cannot be sustained in law.

3.8 It is further contended by learned counsel for appellants-defendant Nos.1 and 2 that the plaintiff has abused the process of the Court by suppressing material facts and obtaining the ad interim order through misrepresentation and non-disclosure of relevant proceedings. Accordingly, it is prayed that the impugned order be set aside, the interim order granted by the trial Court be vacated and the present appeal be allowed.

4. *Per contra*, learned counsel for respondent No.1– plaintiff vehemently contends that the impugned order



passed by the trial Court is legal, just and proper, having been passed upon due consideration of the pleadings and material placed on record by the plaintiff. It is submitted that the plaintiff, acting under a valid JDA executed by its principal, lawfully entered upon the suit schedule property and commenced construction during the year 2022 in accordance with the rights conferred under the said agreement. Therefore, it is contended that the trial Court was fully justified in granting an ad interim order of temporary injunction in favour of the plaintiff.

4.1 It is further contended that having lawfully entered upon the suit schedule property pursuant to JDA and having undertaken substantial construction thereon, the plaintiff has established a *prima facie* case demonstrating its lawful possession of the suit schedule property. It is submitted that the construction has progressed to a considerable extent, thereby evidencing the plaintiff's settled possession and justifying the grant of an order of temporary injunction in its favour.



4.2 It is further contended by the learned counsel that the trial Court has committed no error in granting the ad interim order of temporary injunction to safeguard the interests of the plaintiff, who has invested substantial amounts in the development and construction of the project on the suit schedule property.

4.3 It is further contended by learned counsel for respondent No.1–plaintiff that defendant Nos.1 and 2 have neither any right, title nor interest in the suit schedule property. It is further contended that the identity of the property claimed by defendant Nos.1 and 2 is altogether different from the property over which the plaintiff has undertaken construction. According to the learned counsel, there exists a serious dispute regarding the identity of the property as well as the appellants' alleged right, title and interest therein. In such circumstances, it is contended that the trial Court was justified in protecting the plaintiff's possession by granting an ad interim order of temporary injunction.



4.4 It is further contended by learned counsel for respondent No.1–plaintiff that, while considering an application for grant of an ad interim order of temporary injunction, the trial Court is not required to undertake a detailed examination of the parties title. It is submitted that the trial Court is only required to ascertain whether the applicant has made out a *prima facie* case, apart from satisfying the requirements of balance of convenience and irreparable injury. According to the learned counsel, the respondent No.1–plaintiff has produced sufficient material to establish its *prima facie* possession of the suit schedule property and has demonstrated that substantial construction of apartment buildings is in progress. Therefore, it is contended that the trial Court has neither committed any illegality nor any perversity in granting the ad interim order of temporary injunction.

4.5 It is further contended by learned counsel for respondent No.1–plaintiff that no ownership or proprietary right over the suit schedule property has been established



in favour of defendant Nos.1 and 2. In the absence of any *prima facie* proof of title in their favour, it is submitted that defendant Nos.1 and 2 cannot contend, at this interlocutory stage, that the plaintiff has no right to continue the construction activities on the suit schedule property. It is, therefore, urged that the plaintiff is entitled to proceed with the construction in terms of the ad interim order of temporary injunction granted by the trial Court.

4.6 It is further contended by learned counsel for respondent No.1–plaintiff that pursuant to JDA, the plaintiff has invested substantial amounts in the development of the suit schedule property and has procured large quantities of construction materials for carrying out the project. It is submitted that the construction has progressed to a considerable extent and that photographs depicting the stage of construction have been placed before this Court. Therefore, according to the learned counsel, if the construction activities are



restrained at this stage, the plaintiff would suffer far greater hardship and inconvenience than defendant Nos.1 and 2.

4.7 It is further submitted that, even if defendant Nos.1 and 2 were ultimately to succeed in the suit, the plaintiff would be exposed to greater hardship on account of the substantial investment already made and the advanced stage of construction. It is contended that if the construction is halted at this stage, the plaintiff may be deprived of the equitable considerations arising from the development already undertaken. Therefore, he contends that the plaintiff be permitted to continue the construction activities. On these grounds, he seeks dismissal of the appeal and sustains the impugned order passed by the trial Court.

5. Having heard learned counsel for appellants-defendant Nos.1 and 2 and learned counsel for respondent



No.1-plaintiff and upon perusal of the material available on record, the following point arises for consideration:

- i. Whether the trial Court was justified in passing the impugned order granting an ad interim order of temporary injunction?*
- ii. Whether the same calls for interference by this Court in the exercise of its Appellate jurisdiction?*

6. It is seen that admittedly, the plaintiff has instituted the suit before the trial Court seeking a bare injunction restraining the defendants from interfering with its peaceful possession and enjoyment of the suit schedule property. It is evident that the various contentions and submissions advanced before this Court are founded upon voluminous documents comprising four volumes running into more than 1,000 pages. Admittedly, these documents were not placed before the trial Court and the trial Court had no occasion to consider the same while passing the ad interim order of temporary injunction.



7. The contentions now urged by defendant Nos.1 and 2 as well as the objections filed by the plaintiff, are matters that require consideration by the trial Court while adjudicating the application filed under Order XXXIX Rules 1 and 2 of CPC. It is pertinent to note that the application for temporary injunction has not yet been finally decided on its merits. The impugned order challenged in the present appeal is only an ad interim order of temporary injunction passed pending consideration of the application. Therefore, all the rival contentions and additional material now relied upon by the parties are required to be placed before the trial Court for its consideration while deciding the application in accordance with law.

8. In the meanwhile, upon defendant Nos.1 and 2 approaching this Court by way of the present appeal, this Court, by an order dated 02.06.2026, directed the parties to maintain *status quo* pending consideration of the appeal.



9. It is also contended by learned counsel for appellants-defendant Nos.1 and 2 that, despite the order directing the parties to maintain *status quo*, respondent No.1-plaintiff has continued with the construction activities over the suit schedule property and has been receiving sale consideration from third parties by entering into transactions for the sale of apartments. It is submitted that such acts are in clear violation of the order dated 02.06.2026 passed by this Court and constitute a deliberate breach of the said order, amounting to wilful disobedience thereof.

10. At this stage, learned counsel for respondent No.1-plaintiff fairly submits that the plaintiff shall not undertake any construction on the suit schedule property and shall not alienate, encumber or create any charge over the suit schedule property until further orders. Therefore, the matter may be remitted to the trial Court for disposal of the application on its merits, after taking into consideration all the contentions urged by the plaintiff



before this Court and the documents produced by him in support thereof.

11. Learned counsel for appellants-defendant Nos.1 and 2 fairly submits that the application is required to be considered afresh on its merits. However, he contends that the impugned order, insofar as it grants an order of temporary injunction, cannot be sustained. He further submits that respondent No.1-plaintiff should not be permitted to sell, alienate, receive any consideration, create any encumbrance or charge or put up any further construction on the suit schedule property pending disposal of the application by the trial Court.

12. If that be the condition and the arrangement agreed to by respondent No.1-plaintiff, who has expressed his willingness to have the application decided on its merits, this Court is of the considered opinion that, instead of undertaking an adjudication of the application under Order XXXIX Rules 1 and 2 of CPC by examining the



voluminous records and materials placed before it, the matter would be more appropriately considered by the trial Court, keeping all contentions open.

13. The record comprises numerous documents, including photographs, sale deeds and other documents pertaining to the suit schedule property. In addition, there are several litigations pending *inter se* between the parties as well as against third parties, all of which require careful consideration by the trial Court. The trial Court would also be required to examine the various contentions urged by the appellants-defendant Nos.1 and 2, including the allegations of suppression of material facts and fraud. It would further have to consider whether the notice in O.S.No.973/2026, filed by the appellants-defendant Nos.1 and 2, together with the interim order dated 06.05.2026 passed therein, was duly served upon, delivered to and acknowledged by respondent No.1-plaintiff and the effect, if any, thereof, particularly in the context of the



subsequent institution of O.S.No.3597/2026 by respondent No.1-plaintiff.

14. All these aspects are required to be examined by the trial Court before passing an appropriate orders on the application filed under Order XXXIX Rules 1 and 2 of CPC. Such an exercise is required to be undertaken by the Court of first instance upon appreciation of the pleadings, documents and rival contentions and not by this Court in the first appeal.

15. Accordingly, I pass the following:

ORDER

- i. The appeal is ***allowed-in-part;***
- ii. The impugned order dated 22.05.2026 passed on I.A.No.2 in O.S.No.3597/2026 by X Additional City Civil and Sessions Judge, Bengaluru, is hereby set aside;
- iii. The matter is remitted back to the trial Court for fresh consideration and disposal of I.A.No.2 in



accordance with law, without being influenced by any of the observations made in this order;

- iv. Respondent No.1-plaintiff shall not carry-out any further construction, alienate, create any encumbrance over or alter the nature of the suit schedule property until I.A.No.2 is decided by the trial Court;
- v. It is made clear that any observations made herein are solely for the purpose of disposal of the present appeal;
- vi. The trial Court is directed to consider and dispose of I.A.No.2 afresh, on its own merits and in accordance with law, within a period of fifteen (15) days from the date of receipt of a copy of this order;
- vii. It is needless mention that this Court has not expressed any opinion on the merits of the matter;



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viii. All the contentions and rival submissions of the parties are kept open to be urged before the trial Court;

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

CPN
List No.: 1 Sl No.: 12