



CNR: KAHC010371602026

NC: 2026:KHC:36280
WP No. 17085 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 17085 OF 2026 (GM-CPC)

BETWEEN:

M/S NIRMAN SHELTERS PVT. LTD.
REPRESENTED BY ITS DIRECTOR
SRI V. LAKSHMINARAYANA
S/O. LATE H. VENKATAPPA
AGED ABOUT 79 YEARS
RESIDING AT NO.71
K.R. ROAD, BASAVANAGUDI
BENGALURU - 560 004
(COMPANY PVT. LTD.)
REGISTERED UNDER COMPANIES ACT 1956.

...PETITIONER

(BY SRI SREEVATSA, SR.COUNSEL FOR
SRI JAYARAJ D.S., ADVOCATE AND
SRI SANDESH C.R., ADVOCATE)

AND:

1. SMT. RATHNAMMA
W/O. LATE RAMASWAMY
AGED ABOUT 72 YEARS
RESIDING AT NO. 12/85
8TH CROSS, J.P. NAGAR
1ST PHASE, ANEKAL TALUK
BENGALURU - 560 078.
2. SRI V.L.BHARATH RAJ
S/O. SRI V.LAKSHMINARAYANA
AGED ABOUT 53 YEARS.

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signed by
SUVARNA T
Location:
HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:36280
WP No. 17085 of 2026

CNR: KAHC010371602026

3. SRI. V.L.SHARATH RAJ
S/O. SRI. V.LAKSHMINARAYANA
AGED ABOUT 50 YEARS

RESPONDENT NOS.2 AND 3 ARE
RESIDING AT NO.71, K.R. ROAD
BASAVANAGUDI
BENGALURU - 560 004.

...RESPONDENTS

(BY SRI B. LOKESH., ADVOCATE FOR C/R1 (CP NO.10607/26)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE
NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT
OR ORDER QUASHING THE IMPUGNED ORDER DATED
21.04.2026 PASSED BY THE HON'BLE COURT OF II
ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, ANEKAL IN
DISMISSING THE APPEAL IN MA NO.72/2025 THEREBY
CONFIRMING AND UPHOLDING THE ORDER DATED 27.10.2025
PASSED BY THE HON'BLE COURT OF III ADDITIONAL CIVIL
JUDGE AND JMFC IN OS NO. 192/2025 BY ANNEXURE-F3
ANEKAL IN ALLOWING IA NO. I VIDE ANNEXURE - A4 AND
ETC.,

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



CNR: KAHC010371602026

ORAL ORDER

Aggrieved by the order dated 21.04.2026 in M.A.No.72/2025 passed by the II Additional Senior Civil Judge and JMFC, Anekal, whereby the Appellate Court had confirmed the order dated 27.10.2025 passed in I.A.No.1 in O.S.No.192/2025 by the III Additional Civil Judge and JMFC, Anekal, the petitioner/defendant No.1 is before this Court.

2. Respondent No.1/plaintiff has filed O.S.No.192/2025 seeking permanent injunction. In that suit, the plaintiff had filed I.A.No.1 seeking a temporary injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the property. The trial Court allowed the application and granted the injunction.

3. While allowing the application, the trial Court observed that, as per the complaint averments, the son of the plaintiff has sought to advise Nirman developers and the company advocate against interfering with the possession of their land. Furthermore, the defendants have not produced any documents regarding the further status of the complaint lodged by the son of the plaintiff. The trial Court observed that, admittedly, the



**NC: 2026:KHC:36280
WP No. 17085 of 2026**

ex-parte temporary injunction was granted by the Court in O.S.No.127/2025. However, the registered Sale Deed executed by the mother-in-law and husband of the plaintiff is of the year 2005, and the advance sale receipt much relied upon by defendant No.1 is dated 13.12.2004. Moreover, the plaintiff has placed on record the RTC of Sy.No.144/1, wherein the name of Ramaswamy is entered to an extent of 34 guntas. Hence, on the basis of the registered Sale Deed , RTC, survey documents, and tax paid receipt, the plaintiff has made out a *prima facie* case at this stage.

4. Further, the trial Court observed that this view is tentative, without prejudice to both the parties. It is not enough for the plaintiff to make out a *prima facie* case; further, the plaintiff has to show that the balance of convenience also lies in her favour. The Court has to consider to whom more hardship and inconvenience would be caused if the temporary injunction is not granted. Ultimately, if the defendants interfere with the plaintiff's peaceful possession and enjoyment of the schedule property, the plaintiff would suffer more hardship than the defendants. Hence, it appears that the



CNR: KAHC010371602026

balance of convenience lies in favour of the plaintiff, and the plaintiff would be put to irreparable loss and injury which cannot be compensated in terms of money. Accordingly, the trial Court allowed I.A.No.1, restraining the defendants by way of temporary injunction from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property till disposal of the suit.

5. Learned Senior Counsel, representing the counsel for the petitioner, submits that the suit is filed for a permanent injunction. It is an admitted fact that the defendant has purchased 2 acres of land in Sy.No.144/1 by way of a registered Sale Deed dated 14.12.1994. It is the case that, in fact, the agreement is in respect of 2 acres 24 guntas; however, the Sale Deed reflects only 2 acres. Further, it is submitted that when a person files a suit for injunction, he has to *prima facie* prove that he is in possession of the property. Learned Senior Counsel has drawn the attention of this Court to the complaint given by the son of the plaintiff to the Police Inspector, Jigani Police Station, Anekal Taluk, which is referred to by the trial Court at paragraph No.23 of the order. In the



CNR: KAHC010371602026

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WP No. 17085 of 2026**

said complaint, it is stated that, in order to have the land surveyed and officially demarcated (phodi), he has made an application before the Survey Department. Pursuant to the said application, on 07.02.2025, at about 10.15 a.m., he accompanied the Survey Officials to the property. During the inspection, it was found that Nirman Shelters Company had included 24 guntas of land in its layout and had already constructed residential houses over it. The survey officials issued notices on two occasions directing the company to produce relevant title documents relating to the disputed land. However, the company's advocate, Mr. Patil, failed to produce any documents and prevented the survey and demarcation proceedings from being carried out. Taking advantage of the situation and without their knowledge, the company unlawfully encroached upon the ancestral land, formed a layout, and constructed houses, thereby causing serious interference with the lawful possession and enjoyment of the property.

6. Learned Senior counsel, based on the complaint, submits that the complaint given by the plaintiff's son clearly shows that the plaintiff is not in possession of the property.



According to them, the property is already encroached upon by the defendants, who have made constructions. In those circumstances, the question of granting an injunction would not arise, and the plaintiff has not made out a *prima facie* case. In fact, if an interim injunction is granted, it would cause hardship to the defendants, and the balance of convenience is in their favour.

7. This matter came up on 14.07.2026, and the cause list shows that a caveat has been filed by Sri.B.Lokesh, advocate, on behalf of respondent No. 1/plaintiff. The matter was passed over, directing the petitioner to inform the counsel, his name is also reflected in the cause list. He did not appear either in the forenoon or in the afternoon. To give him an opportunity to appear and argue the matter, the matter is posted to today. Learned Senior counsel for the petitioner submits that they have informed the learned counsel who has filed the caveat on behalf of respondent No. 1 and have filed a memo stating that the advocate for the petitioner has intimated the caveator regarding the listing of the matter through e-mail and WhatsApp even before the matter came up. When the matter



was adjourned to 15.07.2026, the advocate for the petitioner again intimated the caveator about the adjourned hearing through e-mail and WhatsApp, and they have placed the e-mail and WhatsApp communication before this Court. Considering that sufficient opportunity has been given to respondent No.1, which the respondent No.1 has failed to avail, this Court is proposing to pass the order on the merits of the matter.

8. Having heard the learned Senior counsel for the petitioner, perused the entire material on record. The undisputed facts in this case are that the mother-in-law and husband have executed a registered Sale Deed in favour of the defendants for an extent of 2 acres. According to the plaintiff, they have encroached upon another 24 guntas of land and made the construction. According to the defendant, there was an agreement for 2 acres 24 guntas. However, the Sale Deed shows the extent as 2 acres. When the Sale Deed shows an extent of 2 acres, the Court can only consider the registered document, i.e., 2 acres. The relief sought in the suit is a bare injunction in respect of 24 guntas. As rightly argued by the Senior Counsel for the petitioner, when the plaintiff files a suit



seeking a bare injunction, he has to prove that he is in possession of the property and that the defendant is interfering with his peaceful possession and enjoyment of the property.

9. A close perusal of the complaint given by the son of the plaintiff clearly reveals that the defendants have already encroached upon the property and have made constructions. In that case, the Court can presume that the defendants are in possession of the property, not the plaintiff. In those circumstances, the plaintiff is not entitled to any injunction, as he has failed to prove his possession in respect of the property, and the complaint that is given by him to the Police shows that the defendants are in possession of the property. Hence, the plaintiff is not entitled for injunction. This Court has not expressed anything with regard to the plaintiff's entitlement to the property or given any finding with regard to the plaintiff's possession in respect of 24 guntas, whereas, as per the Sale Deed , he has purchased only 2 acres. As for the observations made by the Court and the application seeking an injunction, what are the ingredients that are to be fulfilled for the grant of an injunction?



NC: 2026:KHC:36280
WP No. 17085 of 2026

CNR: KAHC010371602026

10. In the light of the above discussion, this Court is of the considered opinion that the trial Court has granted an injunction without the plaintiff fulfilling the ingredients for the grant of a temporary injunction, and the Appellate Court has confirmed the same. In that view of the matter, this Court is passing the following:

ORDER

- i. The order dated 21.04.2026 in M.A.No.72/2025 by the II Additional Senior Civil Judge and JMFC, Anekal, is **set aside**.
- ii. Accordingly, the writ petition is **allowed**.
- iii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 35