



CNR: KAHC010392282021

NC: 2026:KHC:44217
WP No. 19197 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 19197 OF 2021 (GM-CPC)

BETWEEN:

SRI SIDDESH B. T. UMESH,
S/O LATE B. T. UMESH,
AGED ABOUT 40 YEARS,
NO.7/1/79, ASHIRWAD,
RATHNAVILAS ROAD,
BASAVANAGUDI,
BANGALORE - 560 004.

...PETITIONER

(BY SRI. V. B. SHIVA KUMAR, ADVOCATE)

AND:

1. THE BBMP,
CORPORATION OFFICES,
N. R. SQUARE, J. C. ROAD,
BENGALURU - 560 002
BY ITS COMMISSIONER.
2. THE ASST. EXECUTIVE ENGINEER,
BBMP, WARD NO.109,
CHICKPET, COTTONPET,
SUB-DIVISION, MAGADI ROAD,
BENGALURU - 560 023.
3. M/S SUDARSHAN SILKS,
A PARTNERSHIP BUSINESS CONCERN,

Digitally signed
by
ANNAPURNA G
Location: High
Court of
Karnataka



**NC: 2026:KHC:44217
WP No. 19197 of 2021**

CNR: KAHC010392282021

HAVING ITS REGISTERED OFFICE AT
OLD NO.914, NEW NO.6,
SHANTHAVEERAAIAH LANE,
CHICKPET CROSS,
BENGALURU - 560 053.

...RESPONDENTS

(BY SMT. SARITHA KULKARNI, ADVOCATE FOR R1 AND R2

SRI PRADYUMNA M, ADVOCATE AND

SRI NARAYANA S, ADVOCATE FOR R3))

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO - QUASH THE
ORDER DATED 13.9.2021 PASSED BY THE XII ADDL. CITY
CIVIL AND SESSION JUDGE (CCH.NO.27) BANGALORE IA NO.1
U/S 482(1) OF THE KMC ACT IN O.S.2366/2018 IS AT
ANNEXURE-A AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated
13.09.2021 passed on I.A.No.1 in O.S.No.2366/2018 by
the XII Additional City Civil and Sessions Judge, Bengaluru
(CCH.No.27) (hereinafter referred to as the 'trial Court' for
short).



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2. Heard Sri V. B. Shivakumar, learned counsel appearing for the petitioner, Smt. Saritha Kulkarni, learned counsel appearing for respondents Nos.1 and 2 and Sri Pradyumna M, learned counsel appearing on behalf of Sri Narayana S., learned counsel for respondent No.3.

3. The petitioner filed O.S.No.2366/2018 seeking the relief of declaration that the walls provided to the two schedule immovable properties are common walls and such walls cannot be demolished by defendant No.3 illegally and unauthorisedly. The petitioner also sought a declaration that the construction undertaken by defendant No.3 in the property, which is the subject matter of the notices issued under Section 321(1), 321(2) and 321(3) of the Karnataka Municipal Corporations Act, 1976 (for short, 'KMC Act') pertaining to the suit schedule property, is illegal, unlawful and without permission granted by the Corporation along with the decree of perpetual injunction.

4. In the said suit, defendant No.3 filed I.A.No.3 under Order VII Rule 11(a) and (d) of the Code of Civil



CNR: KAHC010392282021

Procedure, 1908 (for short, 'CPC') seeking rejection of the plaint. The said application came to be allowed by the trial Court vide order dated 15.11.2018, by rejecting the plaint of the petitioner. The plaintiff assailed the said order before this Court in RFA.No.2021/2018. This Court, vide order dated 04.09.2020, recorded its reason in paragraph Nos.14 to 16, remanded the matter to the trial Court for reconsideration of the suit on merits by setting aside the order passed on I.A.No.3 filed by defendant No.3.

5. It is required to be noticed that, after remanding the matter, the trial Court considered I.A.No.1 filed by the plaintiff under Section 482(1) of the KMC Act seeking to dispense with the issuance of notice to defendant Nos.1 and 2 and acceptance of the plaint. The trial Court, under the impugned order dated 13.09.2021, rejected the said application and returned the plaint to be presented after compliance with Section 482(1) of the KMC Act insofar as defendant Nos.1 and 2 are concerned, by recording the reason that the Corporation had initiated



action against defendant No.3 and that the said order was under challenge before the Karnataka Appellate Tribunal and the Karnataka Appellate Tribunal had stayed the notice issued by the respondent No.1/Corporation.

6. It is also required to be noticed that the trial Court, under the impugned order, observed that there was no urgency or immediate relief can be granted against defendant Nos.1 and 2 and consequently, rejected the application. It is further required to be noticed that this Court, in RFA.No.2021/2018, had set aside the order of the trial Court rejecting the plaint and remanded the matter with a direction to reconsider the suit on merits.

7. When things stood thus, I am of the opinion that an opportunity is required to be granted to the plaintiff to issue notice to defendant Nos.1 and 2 afresh and thereafter move before the trial Court to continue the suit against defendant Nos.1 and 2.



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8. For the aforementioned reasons, I proceed to pass the following:

ORDER

- a) The writ petition is ***disposed of*** by affirming the impugned order of the trial Court by permitting the plaintiff in O.S.No.2366/2018 to issue notice to defendant Nos.1 and 2 and thereafter move before the trial Court with a prayer to continue the suit against the said respondents in accordance with law.
- b) No order as to costs.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

SHS
List No.: 1 Sl No.: 23