



CNR: KAHC010449992026

NC: 2026:KHC:49098
MFA No. 4991 of 2026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 9TH DAY OF SEPTEMBER, 2026**

BEFORE

**THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR
MISCELLANEOUS FIRST APPEAL NO. 4991 OF 2026 (CPC)**

BETWEEN:

SRI. ASWATHANARAYANA REDDY
S/O. SRI. UGRA REDDY,
AGED ABOUT 56 YEARS,
NO.7, 1ST FLOOR,
SRI. PADMAVATHI COMPLEX,
HOSPITAL ROAD
BENGALURU-560 053.

...APPELLANT

(BY SRI. R B SADASIVAPPA.,ADVOCATE)

AND:

1. SRI S.V.NARASIMHA REDDY
S/O. SRI. UGRA REDDY,
AGED ABOUT 32 YEARS,
R/AT BYALYA VILLAGE AND POST,
MADHUGIRI TALUK,
TUMKURU DISTRICT - 572 175.
2. SRI. B.U. SRIDHARA,
S/O. SRI. UGRA REDDY,
AGED ABOUT 30 YEARS,
LAXMIVENKATESWARA NILAYA4TH CROSS,
RAGHUVANAHALLI,
R/AT NO.5, KANAKAPURA MAIN ROAD
BENGALURU - 560 063.
3. SMT. NAGARATHNAMMA,
D/O. SRI. UGRA REDDY,
W/O. SRI. DASAPPA,
AGED ABOUT 60 YEARS
R/AT. KONAPURAM MODA POST


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



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PARAGI MANDAL, PENAGONDA TALUK
ANANTHAPURA DISTRICT
ANDRA PRADESH - 515 212.

4. SMT. SUSHEELAMMA,
D/O. SRI. UGRA REDDY,
W/O. SRI. SHANIVARA REDDY,
AGED ABOUT 55 YEARS,
R/AT. BYALYA VILLAGE AND POST,
MADHUGIRI TALUK,
TUMKURU DISTRICT - 572 175.

...RESPONDENTS

(BY SRI. D. NAGARAJA.,ADVOCATE FOR R-1;
NOTICE TO R-2 TO R-4 IS DISPENSED VIDE ORDER DATED
31.08.2026)

THIS MFA IS FILED U/S.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DT. 30.04.2026 PASSED ON IA NO. 24 IN
O.S.NO.7336/2005 ON THE FILE OF THE LXVII ADDITIONAL
CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DISMISSING
THE IA.NO.24 FILED U/O.39 RULE 1 AND 2 R/W SEC.151 OF
CPC, 1908.

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

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

This appeal is preferred by the appellant/plaintiff
challenging the order dated 30.4.2026 passed on I.A.
No.XXIV in O.S. No. 7336/2005, whereby the trial Court



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dismissed the said application filed under Order-XXXIX Rules 1 & 2 of CPC.

2. Upon notice being issued, respondent no. 1/defendant no.3 appeared through an advocate. Notice to Respondent nos.2 to 4 is dispensed as no relief is sought against them.

3. For the sake of brevity, the parties shall be referred to as plaintiff and defendant no. 3.

4. The brief facts leading to filing of this appeal are as under:

4.1 The plaintiff filed an application – I.A. No.XXIV under Order-XXXIX Rules-1 & 2 of CPC for an order of temporary injunction restraining the defendant no. 3 from putting up construction of the first floor over and above the ground floor of item No. 14 of the suit schedule properties, till disposal of the suit.



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4.2 The application filed by the plaintiff came to be seriously objected to by defendant no. 3 by taking a contention that construction of one room in the first floor over and above the ground floor of item no.14 of the suit schedule properties, has already been completed. It is also pleaded by the defendant no.3 before the trial Court that plaintiff would not have any share or right in the suit schedule properties and sought dismissal of the application. Primarily, the defendant no. 3 took up a plea that since the construction has already been put up and it is over, the question of granting any injunction restraining the defendant no.3 of putting up construction cannot be permitted as no *prima facie* case is made out and the balance of convenience tilts in favour of the defendant no.3.

4.3 Based on the pleadings putforth by both the parties, the trial Court did not agree with the contentions of the plaintiff. On the contrary, agreed with the



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contentions put forth by defendant no. 3 and consequently, dismissed the application – I.A. No.XXIV filed under Order-XXXIX Rules 1 & 2 of CPC. It is this order that is challenged by the appellant/plaintiff in this appeal.

5. Learned counsel - Sri R.B. Sadasivappa appearing on behalf of the appellant/plaintiff contends that the appellant does not agree with the impugned order passed by the trial Court. Despite the same, on instructions, learned counsel makes a fair submission that as the defendant no.3 has already put up construction of first floor over and above the ground floor of item no.14 of the suit schedule properties by way of constructing one room, an order may be passed that the defendant no. 3 shall not claim any equity in case the appellant/plaintiff succeeds in the suit.

6. Per contra, learned counsel for the respondent no.1/defendant no. 3 vehemently contends that defendant



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no.3 has already completed the construction in the first floor and there are several other properties. In case the plaintiff succeeds in the suit, each of the parties, who are family members would get equal share. Learned counsel fairly submits that in case, there is an equal distribution of the properties, defendant no.3 would not claim any equity on the construction so put up in the 1st floor of item no.14 of the suit schedule properties.

7. In view of the fair submissions of learned counsel for the appellant/plaintiff and learned counsel for respondent/ defendant no. 3, it may not be required for this Court to delve into the merits of the matter for the reason that admittedly the construction over and above the ground floor of item no.14 of the suit schedule properties has been completed by the defendant no. 3. Admittedly the suit is filed for partition and separate possession. All parties are family members and eventually if the partition suit gets decreed, there will be



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apportionment of shares and distribution of the shares. Therefore, it would be appropriate in the interest of justice that the respondent/ defendant no. 3 does not claim equity over the construction so put up over and above the ground floor of item no.14 of the suit schedule properties.

8. Accordingly, I pass the following:

ORDER

- 1) The appeal stands **disposed of**.
- 2) The impugned order is not disturbed. However, respondent no.1/defendant no.3 shall not claim equity over the construction put up in the 1st floor of item No. 14 of the suit schedule properties.
- 3) In view of the fact that the suit is of the year 2005 and present stage of the case being the evidence of P.W-1 being recorded, the trial Court shall expedite the matter and dispose of the suit



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not later than **eight months** from the date of receipt of copy of this judgment.

- 4) All parties shall cooperate for early disposal of the suit.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

GSS
List No.: 1 Sl No.: 35