



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 20292 OF 2026 (GM-CPC)

BETWEEN:

MR. NARAYANA SHETTY,
S/O LATE TEJAPPA SHETTY,
AGED ABOUT 70 YEARS,
R/AT BANAKA NILAYA,
MUDRADI VILLAGE AND POST,
HEBRI TALUK,
UDUPI DISTRICT - 576 112.

...PETITIONER

(BY SRI. NISHANTH A.V., ADVOCATE)

AND:

MS. YASHODHA SHETTY,
D/O LATE TEJAPPA SHETTY,
AGED ABOUT 59 YEARS,
R/AT NADIBETTU HOUSE,
MUDRADI VILLAGE AND POST,
HEBRI TALUK,
UDUPI DISTRICT - 576 112.

...RESPONDENT

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO (A) SET ASIDE THE
ORDER DATED 02.05.2026 PASSED BY THE LEARNED SENIOR
CIVIL JUDGE AND ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
KARKALA, IN M.A. NO.3/2026 VIDE ANNEXURE-A AND ETC.,



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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order dated 02.05.2026 passed in M.A.No.3/2020 by the Senior Civil Judge and Additional Chief Judicial Magistrate at Karkala, Udupi, the petitioner/plaintiff is before this Court.

2. The petitioner herein has filed suit in O.S.No.35/2023 for a bare injunction, and in that suit, he has filed I.A.No.II. The trial court, by order dated 19.01.2026, has granted an injunction. While granting the injunction, the Court observed that, on consideration of the pleadings and materials placed on record, it is evident that the plaintiff has established a strong prima facie case. The registered sale deed dated 02.08.1981 clearly indicates that the plaintiff purchased the suit schedule property in his personal capacity. The Court further observed that the defendant had failed to place any material to show her right, title or possession over the suit property. The alleged act of trespass on 15.01.2023, the



forcible removal of areca nuts, and the defendant's threat to put up fencing and change the nature of the land clearly demonstrate a continuing threat to the plaintiff's possession, and accordingly, the Court has granted an injunction.

3. Aggrieved thereby, the defendant has filed M.A.No.3/2026 on the file of the Senior Civil Judge and ACJM at Karkala, Udupi. The application was allowed by the impugned order. While allowing the application, the Court observed that the RTC extracts show that the property stands in the names of both the plaintiff and the defendant, and that the plaintiff does not dispute the settlement executed by his father in favour of the defendant. Accordingly, possession of the plaintiff and the defendant in respect of their respective properties is admitted.

4. Further, the Court has noted that the defendant earlier filed O.S.No.196/2002 against the petitioner/plaintiff and others, and that suit was decreed. This aspect was not disclosed by the petitioner in the plaint, and the Court has concluded that there is a prima facie case in favour of the defendant and not in favour of the plaintiff. When the defendant alleges that the order of ex parte temporary



injunction is being misused, the plaintiff has blocked the road. In response, the defendant filed I.A.No.8 for an order of injunction, and the same has been decided by the Court in M.A.No.3/2026. Hence, the Court is of the opinion that there is no prima facie case made out by the plaintiff, and the balance of convenience stands in favour of the defendant, who already has an order of injunction. The defendant will suffer hardship and irreparable injury if an injunction is granted, and accordingly, the application was allowed.

5. Learned counsel appearing for the petitioner submits that the Court has failed to appreciate the facts and the police report, i.e., the complaint given by the plaintiff regarding the alleged interference by the defendant. The appellate Court reversed the findings of the trial Court. It is submitted that the trial Court rightly considered and granted the injunction, and the appellate Court allowed the application only on the ground that an earlier suit for permanent injunction was decreed against the plaintiff.

6. It is submitted that the petitioner has made out a prima facie case and that the balance of convenience lies in his



favour. If the injunction is not granted, it would cause considerable hardship to the petitioner and have another adverse impact on him.

7. A perusal of the material on record indicates that the suit is for a bare injunction. The plaintiff and defendant are none other than the brother and sister, the RTC extracts stand in their joint name. The suit property belongs to the father of the plaintiff and defendant, and it is also an admitted fact that O.S.No.196/2002 is filed by the defendant herein and that the said suit came to be decreed. Though learned counsel for the petitioner submits that the plaintiff could not contest the earlier suit filed by the defendant, he has not challenged the said judgment, and it has attained finality.

8. Under these circumstances, the petitioner cannot seek an injunction in respect of the same subject matter against the defendant. The Court has rightly considered this aspect and held that the balance of convenience lies in favour of the defendant and that, if an injunction is granted, irreparable loss will be caused to the defendant. Hence, this Court is of the considered opinion that the trial Court has



rightly allowed the I.A. filed by the defendant, setting aside the order passed by the trial Court. This Court does not find any reason to interfere. Accordingly, this Court has passed the following:

ORDER

- (i) Accordingly, the writ petition is ***dismissed***.
- (ii) It is made clear that this Court has not expressed any opinion on the merits of the matter and any of the observations made by this Court shall not be construed as an expression of this Court and the trial Court shall consider the suit on the merits in accordance with law.
- (iii) All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

PSJ
List No.: 1 Sl No.: 20