



NC: 2026:KHC:45937
MFA No. 5229 of 2026

CNR: KAHC010478122026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 25TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR
MISCELLANEOUS FIRST APPEAL NO. 5229 OF 2026 (CPC)**

BETWEEN:

- 1 TRISHUL DEVELOPERS
A PARTNERSHIP FIRM HAVING ITS OFFICES
AT MITTAL TOWERS,
OFFICE NO.109, B WING,
FIRST FLOOR, NO. 6,
M.G. ROAD,
BENGALURU - 560 103
REP.HEREIN BY ITS MANAGING PARTNER
MR.NIRAJ MITTAL
MITTAL NIVAS,
94D, 9TH CROSS
RMV EXTENSION,
BENGALURU-560 080

...APPELLANT

(BY SRI. SMARAN SHETTY.,ADVOCATE)

AND:

1. SMT.SHARADAMMA
D/O.LATE SRI RAMAIAH
AGED ABOUT 86 YEARS
R/AT NO.B-36, 1ST MAIN ROAD
NEAR GOVERNMENT HIGH SCHOOL,
BAHUBALI NAGAR, JALAHALLI
BENGALURU NORTH - 560 013
2. SRI. A.SATISH,
S/O LATE GOWRAMMA & LATE B. ANJANAPPA
AGED ABOUT 67 YEARS
R/AT NO.47, KEMPANNA AND BROTHERS LAYOUT,
SHESHADRIPURAM 1ST MAIN ROAD
BENGALURU- 560 002

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



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3. SRI.R.NARAYANA SWAMY,
S/O.LATE SRI.RAMAIHAH
AGED ABOUT 84 YEARS
R/AT NO.117, BASAVESHWAR NILAYA
MUNESHWAR TEMPLE ROAD
JAKKUR VILLAGE, YELAHANKA HOBLI
BENGALURU NORTH
BENGALURU - 560 002
4. SRI. R. BASAVARAJU
S/O.LATE SRI.RAMAIHAH
AGED ABOUT 80 YEARS
R/AT NO.117, BASAVESHWAR NILAYA
MUNESHWAR TEMPLE ROAD
JAKKUR VILLAGE, YELAHANKA HOBLI
BENGALURU NORTH
BENGALURU 560 002
5. SRI.R.ADINARAYANA
S/O.LATE SRI RAMAIHAH
AGED ABOUT 75 YEARS
R/AT NO.117, BASAVESHWAR NILAYA
MUNESHWAR TEMPLE ROAD
JAKKUR VILLAGE, YELAHANKA HOBLI
BENGALURU NORTH
BENGALURU 560 002
6. SRI. R. NAGARAJU,
S/O.LATE SRI.RAMAIHAH
AGED ABOUT 73 YEARS
R/ AT NO.117, BASAVESHWAR NILAYA
MUNESHWAR TEMPLE ROAD
JAKKUR VILLAGE, YELAHANKA HOBLI
BENGALURU NORTH
BENGALURU 560 002
7. SMT.MUNIYAMMA,
W/O.G.PATTALAPPA
MAJOR
R/AT NO.241, MUNESHWAR TEMPLE ROAD
JAKKUR VILLAGE, YELAHANKA HOBLI



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BENGALURU NORTH
BENGALURU - 560 002

...RESPONDENTS

(BY SRI. BALAKRISHNA SHASTRY G.,ADVOCATE FOR R-1 & R-2)

THIS MFA IS FILED U/S.43 RULE 1(r) OF THE CPC, AGAINST THE ORDER DT. 20.01.2025 PASSED ON IA NOS. 1 & 2 AND 3 IN O.S.NO.5389/2024 ON THE FILE OF THE XXVII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU ., ALLOWING IA NO. 1 AND 2, FILED U/O.39 RULE 1 AND 2 R/W SEC.151 OF CPC, AND REJECTING THE IA NO.3 FILED U/O.39 RULE 4 R/W SEC.151 OF CPC 1908.

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 appellant, who is the defendant no. 6 before the trial Court in O.S No. 5389/2024. Respondent nos.1 and 2 are the plaintiffs and Respondent nos. 3 to 7 are the co-defendants.

2. The appellant/defendant No.6 is aggrieved by the impugned order dated 20.01.2025 passed on applications - I.A. Nos.1 and 2 in O.S. No.5389/2024, whereby the learned trial Judge allowed the said applications filed by the plaintiffs under Order - XXXIX Rules 1 and 2 of CPC



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and rejected the application - I.A No. 3 filed by the defendant Nos.1 to 4 under Order - XXXIX Rule 4 of CPC. By virtue of allowing the applications - I.A. Nos.1 and 2, the defendants were restrained by way of temporary injunction from altering or changing the nature of suit schedule properties and from alienating or creating any third party interest in the suit schedule properties. Though the appellant/defendant no. 6 did not make an application before the trial Court for vacating the *ex parte* order of Temporary Injunction, by virtue of the impugned order, he is affected. Hence the present appeal.

3. It is the case of the appellant/defendant No.6 that he entered into a joint development agreement ('**JDA**' for short) dated 16.03.2006 with respondent nos. 3 to 6, who were the joint owners of 6 acres 22 *guntas* of agricultural land bearing Sy. Nos. 31/1, 31/2, 31/3, 31/4, 32/2, 32/3, 32/4, 32/5, 32/6, 32/7, 32/8, 33/3 and 33/4 of Shivanahalli village, Yelahanka hobli, Benaluru North taluk,



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Bengaluru. It is further contended that in terms of the said JDA, the land was converted for non-agricultural purpose through the orders of the Deputy Commissioner. The appellant took possession of the suit schedule properties and commenced the development work on the said properties on 16.03.2026.

3.1 It is further contended that appellant entered into a sharing agreement with respondents 3 to 6 on 01.03.2011 for the first phase of the JDA and as per the sharing agreement, the appellant/developer are entitled to 64% of the share in the constructed area and the owners are entitled to 34% of the share. It is submitted by the learned counsel that in all, 224 apartments have been already constructed and ready to be sold to interested buyers.

3.2 It is also contended by learned counsel for appellant that the respondent nos. 1 and 2 filed a suit praying for a decree of partition and separate possession



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of their share in the suit schedule properties by contending that the suit schedule properties were ancestral and joint family properties and they were in the joint possession of respondent Nos.1 to 6 and that no partition had taken place among them.

3.3 Along with the plaint, applications - I.A. Nos.1 and 2 came to be filed under Order XXXIX Rules 1 and 2 of CPC, whereby the respondent/plaintiff nos.1 and 2 sought for order of injunction restraining the defendants and their agents from changing the nature of the suit schedule properties and also not to alienate the suit schedule properties till disposal of the suit. These applications came to be allowed and order of temporary injunction was passed restraining all the defendants from altering and changing the nature of the suit schedule properties and from alienating or creating third party interest in the suit schedule properties, until the disposal of the suit. Being



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aggrieved, the appellant/defendant No.6 is before this Court in the present appeal.

4. It is the vehement contention of learned counsel appearing for the appellant/defendant No.6 that the impugned order is perverse, illegal and arbitrary as it has not taken into consideration the JDA entered into and executed by the respondent Nos.3 to 6 in favour of the appellant, who is defendant No.6. It is further contended that the trial Court has mechanically passed the order without keeping in mind the share of the developer and the JDA. It is also contended that the trial Court has failed to apply its mind to the documents produced.

4.1 Learned counsel for the appellant fairly submits that the appellant/defendant No.6 has not participated in the suit proceedings by filing his written statement or objection statement and did not put forth his say while the impugned order was passed. However, there was a mention about the JDA having been executed by



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respondent nos. 3 to 6 in favour of the appellant/defendant no. 6. Therefore, all the material was not available with the trial Court and hence has passed the order, whereby even the appellant/defendant no. 6 suffered the impugned order of non-alienation and not to create any third party rights. Learned counsel contends that pursuant to execution of the JDA, 224 apartments have been constructed, out of which 80 apartments fell to the owners' share and 144 apartments fell to the share of the appellant/developer. Therefore, he contends that even if the plaintiffs had made out of prima facie case before the trial Court, it should have been restricted only to the share of the owners and not to that of the appellant/developer.

4.2 Learned counsel fairly submits that he would undertake not to alienate 80 flats which fell to the share of the owners, thereby protecting the rights and interest of the respondent nos.1 and 2/ plaintiffs. He contends that



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the suit is filed for partition and even in case the plaintiffs succeed in the suit, they will be entitled to their share from out of the 80 flats, which fell to the share of the owners. Therefore, learned counsel seeks to modify the impugned order suitably to the above extent.

5. Per contra learned counsel - Sri Balakrishna Shastri appearing on behalf of respondent no. 1 and 2/plaintiffs contends that no fault can be found with the order of the learned trial judge as the appellant/defendant no. 6 did not participate at all before the trial court, neither did he put forth his say in writing by way of an objection statement or written statement. Therefore, the trial court has passed the order on the submissions put forth by the plaintiffs and the other defendants. At the same time, learned counsel also fairly submits that respondent Nos.1 and 2 would be satisfied if the share of the owners is kept intact without any alienation by the appellant and to that extent if the impugned order is



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modified, it would not cause any hindrance or hardship to the respondent/plaintiff nos.1 and 2, but the impugned order requires to be continued as against the other defendants, who are the co-sharers along with the plaintiffs.

6. Having heard learned counsel for appellant/defendant no. 6 and learned counsel for respondent/plaintiff no. 1 and 2, it is seen that there is an agreement between both the learned counsels that the impugned order could be modified to the extent of safeguarding the interest of the appellant/defendant no. 6 and also the respondent/plaintiff Nos.1 and 2. It is also seen that no appeal is filed as of now by the other co-defendants, who are co-sharers.

7. Taking into consideration the submissions made by learned counsels on either side and in the interest of appellant/defendant No.6 and respondent/plaintiff Nos.1



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and 2, this Court deems it appropriate to modify the impugned order.

8. Accordingly, I pass the following:

ORDER

- 1) The appeal is **allowed in part**.
- 2) The impugned order dated 20.12.2025 passed on I.A. Nos.1 and 2 in O.S. No.5389/2024 insofar as against **appellant/defendant No.6** is hereby **set aside**.
- 3) It is made clear that the impugned order is not applicable to appellant/defendant No.6. The appellant is at liberty to deal with the property in the manner according to law. The appellant/defendant No.6 would be entitled to alienate 144 flats constructed in the suit schedule properties, which has fallen to its share as per the sharing agreement dated 1st March 2011, in accordance with law.



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- 4) The impugned order dated 20.1.2025 passed on I.A. Nos.1 and 2 in O.S. No.5389/2024 is **restricted only as against respondent Nos.3 to 7/defendant Nos.1 to 5.** The impugned order passed by the trial Court in so far as restraining the defendant Nos.1 to 5 and their agents by way of Temporary Injunction from alienating or changing the nature of the suit schedule properties and from alienating or creating any third party interest in the suit schedule properties, is left undisturbed.
- 5) In view of disposal of this appeal, pending interlocutory applications, if any would not survive for consideration and the same pale into insignificance.

**Sd/-
(PRADEEP SINGH YERUR)
JUDGE**

GSS
List No.: 1 Sl No.: 11