



CNR: KAHC010486662025

NC: 2026:KHC:39161
MFA No. 5494 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 5494 OF 2025 (CPC)

BETWEEN:

1. SMT. JAYALAKSHMI
D/O. LATE MADASHETTY
AGED ABOUT 64 YEARS.
2. SMT. NAGAMANI
D/O. LATE MADASHETTY
AGED ABOUT 62 YEARS.
3. SMT. SUDHA
D/O. LATE MADASHETTY
AGED ABOUT 60 YEARS.
4. SMT. GOWRAMMA
D/O. LATE MADASHETTY
AGED ABOUT 58 YEARS.
ALL ARE R/AT. MARIGOWDANADANADODDI
VILLAGE, HAMLET OF KOTEKOPPA
UYYAMBALLI HOBLI, KANAKAPURA TALUK
RAMANAGARA DISTRICT - 562 119.

...APPELLANTS

(BY SRI SIDDARAMAIAH V.B., ADVOCATE)

AND:

SRI MADASHETTY
S/O. LATE LAKSHMANA SHETTY
AGED ABOUT 86 YEARS
R/AT. MARIGOWDANADANADODDI VILLAGE
HAMLET OF KOTEKOPPA, UYYAMBALLI HOBLI
KANAKAPURA TALUK - 562 119
RAMANAGARA DISTRICT.

...RESPONDENT

(BY SRI NATARAJ BABA K., ADVOCATE)

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



CNR: KAHC010486662025

NC: 2026:KHC:39161
MFA No. 5494 of 2025

THIS MFA IS FILED UNDER ORDER XLIII RULE 1(R) OF CPC, PRAYING TO SET ASIDE THE ORDER DATED 25.06.2025 PASSED ON I.A.NOS.I TO III IN O.S.NO.663/2024 BY THE SENIOR CIVIL JUDGE AND JMFC, KANAKAPURA. AND ETC.

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 appellants, who are defendant Nos.2 to 5 before the trial Court, challenging the order dated 25.06.2025 passed on I.A.Nos.I, II and III in O.S.No.663/2024 by the Senior Civil Judge and JMFC, Kanakapura (for short, "the trial Court"), whereby the trial Court allowed I.A.Nos.I and II and rejected I.A.No.III.

2. Parties shall be referred to as per their ranking before the trial Court.

3. Brief facts of the case are as under:

The plaintiff filed the suit against the defendants seeking a declaration in respect of the suit schedule



CNR: KAHC010486662025

properties, along with other consequential reliefs. Along with the plaint, the plaintiff filed two applications under Order XXXIX Rules 1 and 2 read with Section 151 of CPC. I.A.No.I was filed seeking an order of temporary injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule properties and I.A.No.II was filed seeking an order of temporary injunction restraining the defendants from alienating the suit schedule properties till the disposal of the suit.

3.1 Upon entering appearance, the defendants filed I.A.No.III under Order XXXIX Rule 4 read with Section 151 of CPC, seeking to vacate the ad interim order of temporary injunction.

3.2 All the three applications were heard together and disposed of by a common order. By the said order, the trial Court allowed I.A.Nos.I and II filed by the plaintiff and restrained the defendants from interfering with the



CNR: KAHC010486662025

possession and enjoyment of the plaintiff over the suit schedule properties till the disposal of the suit. The defendants were also restrained from alienating the suit schedule properties till the disposal of the suit. Consequently, I.A.No.III filed by the defendants under Order XXXIX Rule 4 read with Section 151 of CPC, seeking to vacate the ad interim order of temporary injunction, came to be rejected. It is this common order that is questioned by the defendants in the present appeal.

4. It is contended by Sri Siddaramaiah V.B., learned counsel for appellants-defendants that the impugned order passed by the trial Court is perverse, illegal, arbitrary and unsustainable in law, as the trial Court has failed to consider the material documents placed on record. It is further contended that the suit itself was not maintainable. According to the learned counsel, if at all the plaintiff claimed a share in the suit schedule properties, the proper remedy was to institute a suit for partition and separate



CNR: KAHC010486662025

possession. Instead, the plaintiff has chosen to file a suit for declaration, which is not maintainable in the facts and circumstances of the case.

4.1 It is further contended that the plaintiff has not produced any material to establish that he is the adopted son of late Lakshmanashetty. Learned counsel submits that the trial Court has committed perversity and illegality in failing to appreciate that the suit itself is not maintainable and that the plaintiff has failed to make out a *prima facie* case. According to him, there is no material on record to *prima facie* establish that the plaintiff was validly adopted by late Lakshmanashetty. On the contrary, the material on record indicates that the plaintiff is the son of Gowramma. Therefore, it is contended that the trial Court ought not to have granted the order of temporary injunction in favour of the plaintiff.

4.2 It is further contended that the plaintiff is making hectic efforts to project himself as the adopted son of



CNR: KAHC010486662025

late Lakshmanashetty by taking undue advantage of misconceived facts. It is submitted that the father of defendant Nos.2 to 5 is Madashetty, the son of late Lakshmanashetty and that the first son of the original propositus, late Lakshmanashetty, was also named Lakshmanashetty. According to the learned counsel, the plaintiff is attempting to exploit the similarity in names and the family genealogy to falsely claim that he is the adopted son of late Lakshmanashetty. It is further contended that defendant No.1 is the wife of Madashetty and her father-in-law is also named late Lakshmanashetty.

4.3 It is contended by the learned counsel for the appellants/defendants that the trial Court has not appreciated the records and has committed an error in allowing the applications and granting an order of injunction. During the course of arguments, learned counsel for the appellants/defendants submits that he would not alienate the suit schedule property till the



CNR: KAHC010486662025

disposal of the suit, which is placed on record. Therefore, on that quarter, there may not be any interference. But however, he contends that with regard to interference, he is not interfering so far as with regard to the property belonging to the plaintiff, so also, the plaintiff need not interfere with regard to the properties in the possession and cultivation of the defendants. However, he contends that the defendants are in the respective possession of their property, and they cannot be restrained from dealing with the property in the manner known to law in view of the partition having taken place between the parties. Therefore, he seeks to allow the appeal and set aside the impugned orders passed on IA.Nos.1 and 2 and, consequently, allow IA.No.3.

5. Per contra, learned counsel appearing for the respondent/plaintiff vehemently contends that there is no illegality or perversity in the impugned order passed by the trial Court. The trial Court has taken into consideration



CNR: KAHC010486662025

all the materials placed on record and has come to a correct conclusion with regard to granting an order of injunction. Therefore, he contends that there is no illegality and there is no valid ground for interference by this Court in the well reasoned order of the learned trial Judge.

6. It is contended by the learned counsel for the respondent/plaintiff that a certificate is issued by the government; loan documents, identity card and electricity bills are all produced in the name of his father, whose name is mentioned as Lakshmanashetty. However, defendants in the written statement have contended that Madhashetty is the fifth son of the propositus Lakshmanashetty, but has not disclosed who are the remaining four children of the propositus Lakshmanashetty. It is also contended that defendants in their written statement have contended that the first son of propositus Lakshmanashetty, by name,



CNR: KAHC010486662025

Lakshmanashetty was not having a son and the plaintiff is not his adopted son. Therefore, he contends that sufficient revenue documents have been placed by the plaintiff to show that the suit schedule properties remain in the name of Madashetty S/o Lakshmanashetty.

7. Learned counsel for the respondent/plaintiff submits that the name of Venkatamma is appearing with respect to certain extents of the survey number; therefore he contends that the suit schedule properties had fallen to the share of the defendant No.1 alone or her husband, Madashetty, who is the fifth son of the propositus. The question arises why the names of husband and wife are entered with respect to the different extents of land in the same survey numbers. Therefore, he contends that the prima facie case has been made out by the plaintiff, and accordingly, the trial Court has granted an order of injunction, which does not call for interference.



CNR: KAHC010486662025

NC: 2026:KHC:39161
MFA No. 5494 of 2025

8. Having heard learned counsel for the appellants/defendants and learned counsel for the respondents. The point that arises for consideration is:

"Whether there is any illegality or perversity committed by the trial Court in the grant of the temporary injunction?"

9. Admittedly, the suit schedule property belonged to one Lakshmanashetty, who is the propositus, who had a wife by name Channamma, and five children: Lakshmanashetty, Lakshmi @ Kullamma, Gowramma, Lakshamma and Madashetty. It is not in dispute that Gowramma had a son by name Madashetty and it is claimed that Madashetty was adopted by the first son whose name also is Lakshmanashetty. These are matters to be decided by the trial Court. Whereas defendant No.1, who is the wife of the fifth son of the propositus Madashetty, claims that the property was transferred in her name and she along with her deceased husband and children were in exclusive possession and enjoyment of the suit schedule property. Whereas the plaintiff claims he



CNR: KAHC010486662025

is also in possession and enjoyment of the property as the adopted son of Lakshmanashetty. The tricky issue in this case is that the plaintiff's name is Madashetty, and he is adopted by the first son, namely Lakshmanashetty. These are aspects that have to be decided by the trial Court.

10. The appellants/defendants Nos.2 to 5 are the children of the fifth son Madashetty. The wife of Madashetty had filed the suit along with the children, but she passed away during the pendency of the suit, and the children are now prosecuting this appeal. The children of the fifth son, Madashetty, claim to be in possession and enjoyment of their portion of the suit schedule property. Both the learned counsels submit that they are in respective possession of their portions of the land and are cultivating their lands. I do not find any good ground or cogent reason to interfere with the order of the learned trial Court on the application filed on IA.No.1 to not alienate the suit schedule property by the defendants.



CNR: KAHC010486662025

11. It is the vehement contention of both the learned counsels that as per the RTC entries, the names of both the plaintiff and the defendants are affected. Some portions are in the possession and enjoyment of the plaintiff, and some portions are in the possession and enjoyment of the defendants. Whereas the appellants/defendants claims to be in exclusive possession of all these properties in his own independent right, being children of the original fifth son, Madashetty. Therefore, it is not clear as to who is in possession of which portion of the property, as the RTC also reflects both names. The application schedule properties, though there is some portion reflected in the name of the plaintiff and some portion in the name of defendants, are not admitted by the appellants/defendants that the plaintiff is in exclusive possession of his portion mentioned in the RTC. That is why it becomes very difficult for the trial Court to decide the application for grant of an injunction order because



CNR: KAHC010486662025

both names are the same and so also their fathers' names
i.e. Madashetty son of Lakshmanashetty.

12. With regard to alienation of the suit schedule property, I do not like to interfere with the orders passed by the trial Court. So far as it relates to IA.No.2 not to interfere, this Court deems it appropriate to interfere in the said order as the suit schedule properties are properties that are stated to be absolute properties of the plaintiff, but the same is not admitted by the defendants, and since both names are identical and the same, it requires trial and evidence to be recorded to decide who is in actual possession and enjoyment of the property and so also with regard to the revenue records. Under the circumstances, it would be appropriate to pass an order of the status quo, over respective possession of suit schedule properties.

13. While considering an application under Order XXXIX Rule 1 and 2 read with Section 151 of CPC, the



CNR: KAHC010486662025

three essential requirements are, namely, a prima facie case, balance of convenience, and hardship that would be caused. In the present case on hand, prima facie, it is seen that the plaintiff and the defendants are staking claim over the property belonging to the original propositus, Lakshmanashetty, which is not in dispute. But the question is whether the plaintiff is the adopted son of Lakshmanashetty, which will have to be seen during the course of the trial, and so also whether the properties are in exclusive possession of the plaintiff. Hence, it would be in the interest of both parties with regard to the balance of convenience and also the hardship that would be caused to maintain an order of status quo as far as the possession over the suit schedule property as on date. In view of the discussions made herein above, under the circumstances, I pass the following order:

ORDER

1. The appeal is ***disposed of.***



CNR: KAHC010486662025

2. The impugned order dated 25.06.2025 passed in O.S.No.663/2024 by the Senior Civil Judge and JMFC, Kanakapura is slightly modified to the extent mentioned herein below:

- i. IA No. 1, filed by the plaintiff, directing the defendants to not alienate the suit schedule properties is retained, and not interfered.
- ii. Orders passed on IA.No.II is interfered to the extent of direction to both the parties to maintain the status quo with regard to their respective possession and enjoyment of the suit schedule properties both as per the revenue records and as well as physically till the disposal of the suit.



CNR: KAHC010486662025

3. It is made clear that this Court has not expressed any opinion on the merits of the matter, including as to who is in possession of which portion, and so also with regard to the adoption alleged to have been claimed by the plaintiff, which will have to be decided by the trial Court in the course of the trial.

4. In case any situation arises with regard to any conflict or who is in possession, the trial Court is at liberty to appoint a commission for deciding the matter on hand and pass suitable orders at the later point of time.

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

paragraphs 1 to 4.2.. CPN
paragraphs 4.3 to end RCK