



CNR: KAHC010498622019

NC: 2026:KHC:54278
WP No. 51003 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.51003 OF 2019 (GM-CPC)

BETWEEN:

1. MR.SUNIL NARAYAN
S/O MR. N.K.NARAYAN
AGED ABOUT 53 YEARS
RESIDING AT NO.263
4TH MAIN
MAHALAKSHMI LAYOUT
BENGALURU -560 080
2. MR.RAVICHANDRA
S/O MR.SUGUVANAM
AGED ABOUT 56 YEARS
RESIDING AT NO.22
A.E.C.S LAYOUT
1ST STAGE, 3RD CROSS
R.M.V. 2ND STAGE
BENGALURU – 570 024
3. MR.RAVI PURAVANKARA
S/O SRI.K.PURAVANKARA
AGED ABOUT 67 YEARS
RESIDING AT NO.130/1
ULSOOR ROAD
BENGALURU-560 042

PETITIONER NOS.1, 2 AND 3
ARE REPRESENTED BY THEIR
POWER OF ATTORNEY HOLDER

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified





CNR: KAHC010498622019

NC: 2026:KHC:54278
WP No. 51003 of 2019

MR.NANI R.CHOKSEY
S/O MR.R.B.CHOKSEY
AGED ABOUT 67 YEARS
WITH OFFICE AT NO.130/1
ULSOOR ROAD
BENGALURU – 560 042

4. M/S.PURAVANKARA LIMITED
(FORMERLY PURAVANKARA PROJECTS LIMITED)
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
NO.130/1, ULSOOR ROAD
BENGALURU – 560 042
REPRESENTED BY ITS AUTHORISED SIGNATORY
MR.KEERTHI B.M

...PETITIONERS

(BY SRI.JOSEPH ANTHONY, ADVOCATE)

AND:

1. SMT.MALLAMMA
W/O LATE MUNISIDDAPPA
AGED MAJOR
2. MR.M.RAJANNA
S/O LATE MUNISIDDAPPA
AGED MAJOR
3. MR.M.SUBRAMANYA
S/O LATE MUNISIDDAPPA
AGED MAJOR
4. MR.M.ADVAPPA
S/O LATE MUNISIDDAPPA
AGED MAJOR

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010498622019

NC: 2026:KHC:54278
WP No. 51003 of 2019

5. MS.NAGARATHNA
D/O LATE MUNISIDDAPPA
AGED MAJOR

DEFENDANT NOS.1 TO 5 ARE
ALL RESIDING AT
UGANWADI VILLAGE
KASABA HOBLI
DEVANAHALLI TALUK
BENGALURU-562 110

6. MR.SHIVANANJIAH
S/O LATE NANJIAH
AGED ABOUT 58 YEARS
RESIDING AT 2ND STAGE
2ND A CROSS
NO.11, DEVIKRUPA
WEST OF CHORD ROAD
BENGALURU – 560 086

...RESPONDENTS

(R.1 TO R.6 – SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 13 NOVEMBER, 2019 (ANNEXURE-A) PASSED BY THE HONBLE CIVIL JUDGE AND JMFC, DEVANAHALLI, BANGALORE RURAL AT BANGALORE PERTAINING TO I.A.NO.1/2019 IN O.S.NO.571/2019 AND THEREBY ALLOW I.A.NO.1/2019 (ANNEXURE-B) FILED BY THE PETITIONER UNDER ORDER XXXIX RULE 1 AND 2 R/W SECTION 151 OF CODE OF CIVIL PROCEDURE, 1908

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010498622019

NC: 2026:KHC:54278
WP No. 51003 of 2019

PENDING ON THE FILES OF THE HONBLE CIVIL JUDGE AND JMFC, DEVANAHALLI, BANGALORE RURAL AT BANGALORE AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned writ petition is filed by the plaintiffs, aggrieved by the non-consideration of their application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, 'the CPC'), and by the order of the learned Trial Judge directing issuance of emergent notice to the defendants without considering the prayer for *ad-interim* injunction.

2. The grievance of the petitioners is that, notwithstanding the material placed along with the plaint and the interlocutory application, the learned Trial Judge has not considered the prayer for *ad-interim* injunction and has proceeded to issue emergent notice to the

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010498622019

NC: 2026:KHC:54278
WP No. 51003 of 2019

defendants. This Court, while entertaining the present petition, granted an interim order on 21.11.2019, which has been continued from time to time. Thus, a suit instituted in the year 2019 and the present writ proceedings have remained pending for nearly six years.

3. Learned counsel appearing for the petitioners, referring to the documents produced along with the plaint, would submit that the petitioners' claim of possession is traceable to a registered agreement of sale, which has subsequently culminated in a decree for specific performance. It is submitted that the said decree is presently being enforced by the petitioners in execution proceedings. The suit in question is one for bare injunction, wherein the petitioners allege interference with their possession by the defendants.

4. It is well settled that when an application under Order XXXIX Rules 1 and 2 of the CPC., is accompanied by material documents which, *prima facie*, bear upon the



CNR: KAHC010498622019

NC: 2026:KHC:54278
WP No. 51003 of 2019

plaintiff's claim of possession and entitlement to interim protection, the Court is required to consider such material and apply its mind to the three well-known parameters governing grant of temporary injunction, namely, *prima facie* case, balance of convenience and irreparable injury. The Court, while considering an application for *ad-interim* or *ex-parte* injunction, is required to examine the *prima-facie* material placed before it and cannot defer consideration of the interlocutory application mechanically merely by directing issuance of suit summons.

5. In the present case, the material placed before the learned Trial Judge included the decree for specific performance in O.S.No.1342/2006, which, according to the petitioners, constitutes the basis for their assertion of possession and is presently the subject matter of execution proceedings. Whether such material ultimately establishes the petitioners' entitlement to injunction is a matter which the learned Trial Judge is required to

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010498622019

**NC: 2026:KHC:54278
WP No. 51003 of 2019**

consider in accordance with law. However, the said material could not have been left unconsidered while deferring the application under Order XXXIX Rules 1 and 2 of the CPC.

6. The circumstances of the present case assume significance since the suit was instituted in the year 2019 and the petitioners have approached this Court complaining of non-consideration of their application for interim protection. This Court, in the meanwhile, granted an interim order on 21.11.2019, which has continued from time to time. Learned counsel for the petitioners submits that, despite repeated attempts, summons have not yet been served upon the defendants. In such circumstances, the learned Trial Judge is required to consider whether, having regard to the material available on record and the circumstances surrounding service of summons, the application under Order XXXIX Rules 1 and 2 of the CPC.,

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010498622019

**NC: 2026:KHC:54278
WP No. 51003 of 2019**

can now be considered and decided, including, where permissible in law, on an *ex-parte* basis.

7. The learned Trial Judge shall, therefore, take note of the efforts and steps undertaken by the petitioners for effecting service of summons upon the defendants and shall consider the interlocutory application in accordance with law. While doing so, the learned Trial Judge shall advert to the pleadings, the documents produced by the parties, the decree passed in O.S.No.1342/2006 and the proceedings arising therefrom, without being influenced by any observations made in this order.

8. Having regard to the fact that the interim order granted by this Court has remained in operation from 21.11.2019 and the defendants have not chosen to contest the present proceedings, this Court deems it appropriate to dispose of the writ petition with a direction that the interim order granted by this Court shall remain in force until the learned Trial Judge considers and decides

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010498622019

NC: 2026:KHC:54278
WP No. 51003 of 2019

the application filed by the petitioners under Order XXXIX Rules 1 and 2 of the CPC, in accordance with law.

9. The learned Trial Judge shall make every endeavour to consider the said application expeditiously and, in any event, without being influenced by the continuation of the interim order granted by this Court.

With the aforesaid observations and directions, the writ petition stands ***disposed of***.

Pending interlocutory applications, if any, stand disposed of.

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified

(SACHIN SHANKAR MAGADUM)
JUDGE