



CNR: KAHC010601062023

NC: 2026:KHC:47043
W.P. No.25788/2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 31ST DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.25788/2023 (GM-CPC)

BETWEEN:

SRI. NIRANJAN BHAT
S/O LATE SRI. MADVARAYA BHAT
AGED ABOUT 47 YEARS
R/AT SADOOR HOUSE
KOYYUR VILLAGE
BELTHANGADI TALUK
DAKSHINA KANNADA.

...PETITIONER

(BY SRI. B.J. JANARDHANA REDDY, ADV.,)

AND:

1. SRI. JAYARAM BHAT
S/O LATE SRI. MADVARAYA BHAT
AGED ABOUT 65 YEARS
R/AT SADOOR HOUSE
KOYYUR VILLAGE
BELTHANGADI TALUK
DAKSHINA KANNADA.
2. SMT. SUJATHA
W/O SRI. SHRIDHARA BARITHAYA
D/O LATE SRI. MADVARAYA BHAT
AGED ABOUT 55 YEARS.
3. SMT. USHA
W/O SRI. ASHOKA BARITHAYA
D/O LATE SRI. MADVARAYA BHAT
AGED ABOUT 49 YEARS.

BOTH ARE R/AT SADOOR HOUSE
KOYYUR VILLAGE
BELTHANGADI TALUK
DAKSHINA KANNADA.

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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...RESPONDENTS

(BY SRI. PRASHANTH B.K. ADV., FOR C/R1)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH/SET ASIDE THE IMPUGNED ORDER UNDER ANNEXURE-A, DATED 22.09.2022 PASSED IN I.A.NO.II UNDER ORDER XXXIX RULE 1 & 2 R/W SECTION 151 OF CPC, IN O.S.NO.110/2022, BY THE HON'BLE PRINCIPAL CIVIL JUDGE & JMFC AT BELTHANGADY AND ANNEXURE-B, THE CONFIRMED ORDER DATED 07.09.2023 PASSED IN MA NO.8/2022 BY THE HON'BLE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC AT BELTHANGADY & ETC.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This petition is filed challenging the order dated 22.09.2022 passed on IA.No.2 in OS.No.110/2022 by the Principal Civil Judge and JMFC, Belthangady (for short 'the trial Court') and order dated 07.09.2023 passed in MA.No.8/2022 by the Principal Senior Civil Judge and JMFC, Belthangady (for short 'the Appellate Court').

2. Heard Sri.B.J.Janardhana Reddy, learned counsel appearing for the petitioner, Sri.Prashanth B.K., learned counsel for respondent No.1 and meticulously perused the material available on record.



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3. Respondent No.1 filed a suit in OS.No.110/2022 seeking the relief of declaration that the plaintiff is entitled to use the plaint 'C' schedule road by way of easement of necessity and a consequential relief of permanent injunction restraining the defendants, their men, servants and representatives from blocking the plaint 'C' schedule road. In the said suit, the plaintiff filed an application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC'), seeking a temporary injunction restraining the defendants from blocking the 'C' schedule road till the disposal of the suit. The said application came to be allowed by the trial Court vide order dated 22.09.2022. The said order was assailed by defendant No.1 in MA.No.8/2022 before the Appellate Court. The said appeal came to be dismissed vide order dated 07.09.2023, by affirming the order of the trial Court granting temporary injunction pending disposal of the suit.



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4. The primary contention of the learned counsel for the petitioner is that, except photographs, no other material has been placed on record by the plaintiff to substantiate the contention that the plaint Schedule 'C' road is being used by the plaintiff. It is further contended that, in the absence of any material, finding recorded by the trial Court and the Appellate Court with regard to the plaintiff's use of the road is incorrect.

5. It is to be noticed that paragraph No.10 of the order passed by the trial Court indicates that the plaintiff had produced a photocopy of the settlement deed dated 30.08.2001. Upon going through the same, the trial Court has observed that the plaintiff's father has executed a settlement deed in respect to the 'A' schedule property and to substantiate the same, revenue records were placed, which indicates that 'A' schedule property stands in the name of the plaintiff. It is further to be noticed that the plaintiff had also produced photographs along with a CD with respect to the 'C' schedule road. Considering the



same and also recording that the defendant has admitted that the plaintiff had forcibly formed a road in the 'B' schedule property to reach 'A' schedule property, the trial Court observed that there was no separate road to approach Schedule 'A' property. In my considered view, the said finding of the trial Court is only with regard to the consideration of the interim relief sought in the application by the plaintiff. The question as to whether the plaintiff has any other road to access 'A' schedule property is required to be gone into by the trial Court while deciding the suit on its merits, as the suit is for the relief of declaration of easement of necessity.

6. The trial Court, at paragraph No.14 of its order, keeping in mind the conflicting interest of the parties, considering the pleadings and material on record, formed a prima facie opinion and granted the temporary injunction. The said order has been affirmed by the Appellate Court by recording detailed findings. I do not find any good ground to interfere with the concurrent



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findings on the use of the road in the orders passed by the trial Court and the Appellate Court, as the suit is of the year 2022 and has not proceeded further in view of the pendency of the present writ petition. Accordingly, I proceed to pass the following:

ORDER

- i. The writ petition is ***dismissed***.
- ii. The trial Court is directed to dispose of the suit as expeditiously as possible, without there being any influence by the finding recorded by it on the application for temporary injunction, and by the findings recorded by the Appellate Court in the impugned order.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

ABK
List No.: 1 Sl No.: 17