



CNR: KAHC010619972026

NC: 2026:KHC:49238
MFA No. 6448 of 2026
C/W MFA No. 6449 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 6448 OF 2026 (CPC)

C/W

MISCELLANEOUS FIRST APPEAL NO. 6449 OF 2026 (CPC)

IN MFA No. 6448/2026

BETWEEN:

SMT S A RUKKAMMA
W/O SRI. LATE MUNI REDDY
AGED ABOUT 82 YEARS (SENIOR CITIZEN)
RESIDING AT VILLA -B,
BANYANTREE APARTMENT,
KARIYAMMANA AGRAHARA ROAD,
BEHIND SAKRA HOSPITAL.,
BELLANDUR POST,
BANGALORE - 560 103

REPRESENTED BY SPA HOLDER AND SON
SHRI. SRINIVASA REDDY
AGED 61 YEARS,
S/O LATE MUNI REDDY,
VILLA-B, BANYAN TREE APARTMENT,
KARIYAMMANA AGRAHARA ROAD,
BEHIND SAKRA HOSPITAL,
BELLANDUR POST, BANGALORE - 560 103

...APPELLANT

(BY SRI. VIVEK REDDY, SENIOR COUNSEL A/W
SRI. DILLI RAJAN, ADVOCATE FOR
SRI. SUBBA REDDY K.N., ADVOCATE)


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



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AND:

1. SMT GEETHA RANI
W/O LATE SRI P. RAJGOPAL
AGED ABOUT 55 YEARS
R/A NORTH VILLA,
NO 533, ADARSH PAM RETREAT
LANE NO-2, PHASE-3,
DEVARABISANAHALLI,
BELLANDUR POST,
BANGALORE - 560 103
2. MISS SRISHA
D/O LATE R. RAJAGOPAL
AGED ABOUT 28 YEARS,
R/A NORTH VILLA,
NO 533, ADARSH PAM RETREAT
LANE NO-2, PHASE-3,
DEVARABISANAHALLI,
BELLANDUR POST,
BANGALORE - 560 103
3. SRI. BABU REDDY
S/O MUNI REDDY
AGE MAJOR,
R/A NORTH VILLA,
NO 533, ADARSH PAM RETREAT
LANE NO-2, PHASE-3,
DEVARABISANAHALLI,
BELLANDUR POST,
BANGALORE - 560 103
4. SRI. SURESH
S/O
AGED ABOUT 60 YEARS



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R/A BEHIND VENUGOPALASWAMI TEMPLE
DEVARABISANAHALLI VILLAGE
VARTHUR HOBLI,
BANGALORE EAST TALUK
BANGALORE URBAN DISTRICT - 560 103

5. SRI. DINESH
S/O SURESH
AGE ABOUT 32 YEARS,
R/A BEHIND VENUGOPALASWAMI TEMPLE
DEVARABISANAHALLI VILLAGE
VARTHUR HOBLI,
BANGALORE EAST TALUK
BANGALORE URBAN DISTRICT - 560 103

6. SMT, GAYATHRI
W/O SURESH
AGED ABOUT 50 YEARS, R/A BEHIND
VENUGOPALASWAMI TEMPLE
DEVARABISANAHALLI VILLAGE
VARTHUR HOBLI, BANGALORE EAST TALUK
BANGALORE URBAN DISTRICT - 560 103

...RESPONDENTS

(BY SRI. AKASH V.T., ADVOCATE FOR C/R1 AND R2)

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DATED 27-08-2026 PASSED ON IA NO.3
IN O.S.NO.4802/2026 ON THE FILE OF THE XXII ADDITIONAL
CITY CIVIL AND SESSIONS JUDGE, BANGALORE CITY
REJECTING THE IA NO.3 FILED U/O.39 RULE 1 AND 2 R/W
SEC.151 OF CPC, 1908.



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IN MFA NO. 6449/2026

BETWEEN:

SMT S.A. RUKKAMMA
W/O SRI. LATE MUNI REDDY
AGED ABOUT 82 YEARS (SENIOR CITIZEN)
RESIDING AT VILLA -B,
BANYANTREE APARTMENT,
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BANGALORE - 560 103

REPRESENTED BY SPA HOLDER AND SON
SHRI. SRINIVASA REDDY
AGED ABOUT 61 YEARS
S/O LATE MUNI REDDY,
VILLA-B, BANYAN TREE APARTMENT,
KARIYAMMANA AGRAHARA ROAD,
BEHIND SAKRA HOSPITAL,
BELLANDUR POST,
BANGALORE - 560 103

...APPELLANT

(BY SRI. VIVEK REDDY, SENIOR COUNSEL A/W
SRI. DILLI RAJAN, ADVOCATE FOR
SRI. SUBBA REDDY K.N., ADVOCATE)

AND:

1. SMT GEETHA RANI
W/O LATE SRI P. RAJGOPAL
AGED ABOUT 55 YEARS
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DEVARABISANAHALLI,
BELLANDUR POST,
BANGALORE - 560 103

2. MISS SRISHA
D/O LATE R. RAJAGOPAL
AGED ABOUT 28 YEARS,
R/A NORTH VILLA,
NO 533, ADARSH PAM RETREAT
LANE NO-2, PHASE-3,
DEVARABISANAHALLI,
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BANGALORE - 560 103
3. SRI. BABU REDDY
S/O MUNI REDDY
AGE MAJOR,
R/A NORTH VILLA,
NO 533, ADARSH PAM RETREAT
LANE NO-2, PHASE-3,
DEVARABISANAHALLI,
BELLANDUR POST,
BANGALORE-560103
4. SRI. SURESH
S/O
AGED ABOUT 60 YEARS
R/A BEHIND VENUGOPALASWAMI TEMPLE
DEVARABISANAHALLI VILLAGE
VARTHUR HOBLI,
BANGALORE EAST TALUK
BANGALORE URBAN DISTRICT - 560 103
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S/O SURESH



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AGED ABOUT 50 YEARS,
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VARTHUR HOBLI, BANGALORE EAST TALUK
BANGALORE URBAN DISTRICT - 560 103

...RESPONDENTS

(BY SRI. AKASH V.T., ADVOCATE FOR C/R1 AND R2)

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DT.27-08-2026 PASSED ON IA NO.2
IN O.S.NO.4802/2026 ON THE FILE OF THE XXII
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE,
BANGALORE CITY REJECTING THE IA NO.2 FILED U/O. 39
RULE 1 AND 2 R/W SEC.151 OF CPC, 1908.

THESE APPEALS, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL JUDGMENT

In these two appeals, appellant is the plaintiff before the trial Court in O.S.No.4802/2026 pending on the file of the XXII Additional City Civil and Sessions Judge, Bengaluru City. Both these appeals arise out of the orders passed on the applications IA.Nos.2 and 3. MFA.No.6448/2026 is filed challenging the orders passed on IA.No.3 in O.S.No.4802/2026 filed under Order XXXIX Rule 1 and 2 read with Section 151 of CPC. MFA.No.6449/2026 is filed challenging the orders passed on IA.No.2 in O.S.No.4802/2026 filed under Order XXXIX Rule 1 and 2 read with Section 151 of CPC.

2. The parties to the proceedings shall be referred to as plaintiff and defendants for the sake of brevity.

3. The facts of the case are as follows.

The plaintiff filed suit against the defendants for the relief of declaration to declare the plaintiff to be the



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absolute owner of 'A' schedule property, which also includes 'B' schedule property, and the second relief for a direction to the defendant Nos.1 to 6 to remove, demolish, dismantle shed structure and any improvements made on the 'B' schedule property. Further, direct the defendant Nos.1 to 6 to deliver vacant physical possession of 'B' schedule property or, in the alternative, to remove, demolish and dismantle the improvements made in the 'B' schedule property and deliver vacant possession of 'B' schedule property to the plaintiff and for relief of permanent injunction.

3.1 Along with the plaint, two applications came to be filed. IA No.2 came to be filed by the plaintiff for a direction to the defendant Nos.1 to 6 to not alienate the 'B' schedule property. IA No.3 came to be filed for a direction to the defendant Nos.1 to 6 from creating or mortgaging or changing the nature of the suit schedule property.



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3.2 Upon notice being served, defendant Nos.1 and 2 had appeared, filed their statement, denied the averments, and objected to the applications being allowed on several grounds. The plaintiff did not seek any relief as against defendant Nos.3 to 6.

3.3 Upon consideration of the applications, the trial Court, having adverted to the arguments by both the learned counsels for the plaintiff and the defendant Nos.1 and 2, did not find favour with the plaintiff and rejected the applications - IA.Nos.2 and 3 filed under Order XXXIX Rule 1 and 2 read with Section 151 of CPC by holding that no prima facie case is made out by the plaintiff, therefore the question of considering balance of convenience and irreparable injury or hardship would not arise and consequently dismissed both the applications. It is these two orders that are challenged by way of two appeals by the appellant/plaintiff.



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4. Learned senior counsel Sri.Vivek Subba Reddy, appearing on behalf of learned counsel Sri.Subba reddy.K.N., for the appellant/plaintiff vehemently contends that the impugned order passed by the learned trial judge is illegal, perverse, arbitrary and contrary to the materials placed on record. The trial Court has conveniently ignored the registered documents of the sale deed, the sale agreement, the partition deed, and the title of the plaintiff over the suit schedule property. It is also contended by learned senior counsel that the trial Court has committed a serious error in not looking into the prima facie case made out by the plaintiff to go in for trial and that the balance of convenience is in favour of the plaintiff and hardship could be caused to the plaintiff in case there is no grant of an injunction in favour of the plaintiff, which would lead to multiplicity of proceedings, the change of nature of the suit schedule property and therefore he contended that the impugned order deserves to be set aside and reversed.



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4.1 It is also vehemently contended by learned senior counsel that the trial Court has committed an error by holding at paragraph No.9 in the impugned order that the plaintiff does not have confidence about the boundary of the plaint 'A' schedule property and he contends that the same is utterly perverse, absurd and illegal as the trial Court cannot go into the issue of the boundary being right or wrong while considering an application under Order XXXIX Rule 1 and 2 read with Section 151 of CPC, as the trial Court is not required to conduct a mini trial at the time of deciding an application under Order XXXIX Rule 1 and 2 read with Section 151 of CPC. It is also vehemently contended by learned senior counsel that the trial Court does not have any liberty to delve into the merits of the matter by holding that the boundaries had been altered by the plaintiff in the description given in these two documents, which is again absurd, arbitrary and perverse.



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4.2 Learned senior counsel for the appellant/plaintiff also contends that the case made out by the defendant Nos.1 and 2 is that they are the absolute owners of the 'B' schedule property, which is shown as Janjaru No.25, next to the land in Survey No. 57/3, new survey No.57/9 in question. Whereas he contends that on the southern side of the 'A' schedule property there is a land bearing Survey No.57/4 and that there is no property of the defendants towards any side of the boundaries of the plaintiff's land. Learned senior counsel contends that the alleged property of the defendants namely Janjaru No.25 is fraudulent and non existent and the defendants cannot claim right over the property without there being any survey number shown in any of the documents of the defendants.

4.3 It is also contended by the learned senior counsel that in the survey reports and the revenue records there is no such property called as Janjaru No. 25 next to the land bearing Survey No.57/3, new Survey No.57/9. However,



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the trial Court has erroneously come to the conclusion that the plaintiff is not confident about the boundaries shown in his plaint as well as in the documents which contradicts his own case, and therefore the trial Court has ventured into conducting a mini trial while deciding the application on Order XXXIX Rule 1 and 2 read with Section 151 of CPC, which is not the requirement while considering the application. Therefore, he contends that the impugned order is perverse, illegal and arbitrary and the same deserves to be set aside and reversed. On these grounds, he seeks to allow the appeals.

5. *Per contra*, learned counsel for respondent Nos.1 and 2-defendant Nos.1 and 2 vehemently contends that there is absolutely no illegality or perversity in the impugned order passed by the trial Court. It is further contended that, according to the plaintiff's own case, the plaintiff is seeking possession and delivery of vacant possession of the 'B' schedule property, which evidently



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shows that the plaintiff is not in possession of the 'B' schedule property. On the contrary, defendant Nos.1 and 2 who are in possession and enjoyment thereof, having put up construction over the 'B' schedule property.

5.1 It is further contended that defendant No.1 had instituted O.S.No.1056/2021 against the children of the plaintiff - Smt. S.A.Rukkamma, seeking relief of permanent injunction. The said suit came to be decreed in favour of the plaintiff therein, who is defendant No.1 herein. It is submitted that defendant No.1 is the absolute owner and is in lawful possession and enjoyment of the property bearing Property No.25, Site No.18, P.I.D.No.30/29/25, BBMP Bellandur, Old Ward No.150, presently Marathahalli Ward No.88, situated at Devarabisanahalli Village, Varthur Hobli, Bengaluru East Taluk, measuring East to West 50 feet and North to South 50 feet, in all measuring 2,500 square feet, consisting of a residential-cum-commercial building comprising three



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floors. The defendants therein were placed *ex parte*, including the son of the plaintiff - Smt. S.A.Rukkamma in the present case. It is further contended that the defendants therein have filed a miscellaneous petition seeking restoration of the said suit and an opportunity to contest the matter, which petition is pending adjudication before the competent Court.

5.2 It is further contended that the very same plaintiff - Smt. S.A. Rukkamma, had instituted O.S.No.960/2021 in respect of the very same suit schedule property, seeking relief of permanent injunction. In the said suit, an application was filed seeking an order of temporary injunction. The trial Court, upon consideration of the said application, rejected the same on the ground that the plaintiff had failed to make out a *prima facie* case. Aggrieved by the said order, the plaintiff therein, along with her son, namely, Sri Srinivas Reddy, who is her GPA holder, has preferred M.F.A.No.3559/2022,



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which is pending adjudication. It is further contended that no interim order has been granted in the said appeal.

5.3 It is further contended that, in all the three suits, including the present suit, the suit schedule property is one and the same, insofar as the defendants are concerned. It is submitted that, in the earlier proceedings, defendant Nos.1 and 2 herein were the beneficiaries of a judgment and decree restraining the defendants therein from interfering with their peaceful possession and enjoyment of the suit schedule property. In such circumstances, no order can now be granted in favour of the plaintiff - Smt.S.A.Rukkamma herein, as the same would be wholly contrary to the judgment and decree already passed in favour of defendant Nos.1 and 2 herein.

5.4 It is further contended that the present proceedings constitute the second round of litigation in respect of the very same suit schedule property. The plaintiff, having initially instituted a suit for bare injunction



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and having suffered an order refusing the grant of temporary injunction, is now attempting, by instituting the present suit for declaration, to obtain an order of injunction, which, cannot be granted, particularly when the plaintiff had failed to secure an order of temporary injunction in O.S.No.960/2021.

5.5 It is further contended that the defendants are the absolute owners of the property described in the schedule to the earlier suit in O.S.No.1056/2021 and are in absolute possession and enjoyment thereof. It is submitted that the defendants have put up a three-storeyed construction over the said property and are carrying on business activities therein. Therefore, having succeeded in the earlier suit filed by them, as well as in the suit filed by the appellant-plaintiff, they ought not to be placed in a worse position. Thereafter, it is further contended that there is no illegality or perversity in the impugned order passed by the trial Court warranting



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interference by this Court. It is contended that, contrary to the opinion expressed by the trial Court, the plaintiff has failed to make out a *prima facie* case for grant of an order of temporary injunction. On these grounds, he seeks dismissal of the appeal.

6. I have heard learned counsel for appellant-plaintiff and learned counsel for respondent Nos.1 and 2 - defendant Nos.1 and 2. The points that arises for consideration are:

- "1. *Whether the impugned order passed by the trial Court calls for interference by this Court?*
2. *If so, what order?"*

7. It is not in dispute that the suit is filed by the plaintiff - Smt. S.A.Rukkamma, seeking, *inter alia*, the relief of declaration and delivery of vacant possession of the 'B' schedule property from the defendants, which relief is sought in prayer No.2. Therefore, the plaintiff herself admits that defendant Nos.1 and 2 are in possession of



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the 'B' schedule property and have put up construction thereon. When the plaintiff seeks delivery of possession of the 'B' schedule property from the defendants, it is apparently clear that the plaintiff is not in possession thereof and that the defendants are in possession of the 'B' schedule property.

8. In respect of the very same suit schedule property, the plaintiff had earlier sought an order of temporary injunction in O.S.No.960/2021, which came to be rejected by the trial Court, holding that the plaintiff had failed to make out a *prima facie* case for grant of an order of temporary injunction.

9. Apparently, it is also not in dispute that the rejection of the application in O.S.No.960/2021 for temporary injunction has been challenged by the plaintiff - Smt.S.A.Rukkamma before this Court in a Memorandum of First Appeal No.3559/2022, which is pending adjudication.



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10. The plaintiff - Smt.S.A.Rukkamma has now filed the present suit seeking relief of declaration, along with two applications, namely, I.A.No.II and I.A.No.III. I.A.No.II has been filed seeking an order of temporary injunction restraining defendant Nos.1 to 6 from alienating the 'B' schedule property or creating any third-party rights therein, in any manner whatsoever, pending disposal of the suit. I.A.No.III has been filed seeking an order of temporary injunction restraining defendant Nos.1 to 6 from creating any mortgage over the suit schedule property or changing the nature thereof.

11. I am unable to agree with the contentions advanced by the learned Senior Counsel for the appellant-plaintiff that the trial Court has committed any illegality or perversity in declining to grant an order of temporary injunction restraining the defendants from creating any mortgage over or otherwise changing the nature of the suit schedule property. The reason is that the defendants



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have already succeeded in the earlier suit in O.S.No.1056/2021 pertaining to the very property which is now claimed by the plaintiff as the 'B' schedule property. The said order has neither been reversed nor set aside as on date. It is also relevant to note that the plaintiff's son, who had been placed *ex parte* in the said proceedings, has made an attempt to have the said suit restored by filing a miscellaneous petition.

12. Secondly, in the earlier suit in O.S.No.960/2021, the very same plaintiff, namely, Smt. S.A. Rukkamma, having instituted a suit for bare injunction, was unsuccessful in securing an order of temporary injunction restraining the defendants from interfering with her peaceful possession and enjoyment of the suit schedule property. The only difference in the present suit is that, by way of I.A.No.II, the plaintiff has sought an order of temporary injunction restraining the defendants from alienating the 'B' schedule property or creating any third-



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party rights therein, pending disposal of the suit. Therefore, I am afraid this Court cannot interfere with the order passed by the trial Court on I.A.No.III. I am in agreement with the learned counsel for defendant Nos.1 and 2 with regard to his contention that the trial Court has considered all these aspects while dismissing I.A.No.III. Accordingly, no interference with the impugned order is warranted.

13. Coming to the order passed on I.A.No.II, the plaintiff - Smt.S.A.Rukkamma had sought an order of temporary injunction restraining defendant Nos.1 to 6 from alienating the 'B' schedule property or creating any third-party rights therein during the pendency of the suit.

14. Apparently, there is a serious dispute with regard to the ownership and title over the 'B' schedule property. The defendants have no grievance with regard to the 'A' schedule property and their dispute is confined only to the



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B-Schedule property. The plaintiff describes the 'B' schedule property as her property, whereas the defendants contend that the said property belongs to them and forms part of property No.25, as claimed by them. Therefore, the question as to whether the 'B' schedule property belongs to the plaintiff or to the defendants is a matter to be adjudicated by the trial Court upon a full-fledged trial.

15. It is also an admitted fact that the defendants are in absolute possession and enjoyment of the 'B' schedule property, having put up a three-storeyed construction thereon and carrying on certain activities therein. The trial Court has rightly come to the conclusion that an order of temporary injunction restraining the defendants from interfering with the plaintiff's possession cannot be granted, as the plaintiff is not in possession of the 'B' schedule property. However, this Court is inclined to allow I.A.No.II to the limited extent of restraining the



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defendants from alienating the 'B' schedule property during the pendency of the suit, as the question regarding ownership of the 'B' schedule property is yet to be adjudicated by the trial Court.

16. Therefore, this Court is not inclined to interfere with the order passed by the trial Court in MFA No.6448/2026, whereby I.A.No.III came to be dismissed. This Court does not find any illegality or perversity in the said order warranting interference. Insofar as MFA.No.6449/2026 is concerned, the said appeal arises out of the order passed on I.A.No.II, whereby the plaintiff had sought an order of temporary injunction restraining the defendants from alienating the 'B' schedule property. For the reasons discussed hereinabove, this Court is of the opinion that the trial Court was not justified in dismissing I.A.No.II in its entirety. Accordingly, interference is called for in the said appeal. It would be appropriate to restrain the defendants from alienating the B-Schedule property



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during the pendency of the suit. Accordingly, the order passed by the trial Court on I.A.No.II warrants interference in MFA No.6449/2026.

17. Accordingly, I pass the following:

ORDER

- i. MFA.No. 6448/2026 is ***dismissed***;
- ii. MFA.No. 6449/2026 is ***allowed***;
- iii. Consequently, the order dated 27.08.2026 passed on I.A.No.II in O.S.No.4802/2026 by XXII Additional City Civil and Sessions Judge, Bengaluru, is hereby set aside. I.A.No.II is accordingly allowed and respondent Nos.1 and 2 - defendant Nos.1 and 2 are restrained from alienating the 'B' schedule property during the pendency of the suit;
- iv. It is made clear that the contentions with regard to the earlier suit, which is presently



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the subject matter of the miscellaneous petition preferred by the son of the appellant-plaintiff, namely, Smt. Rukkamma, are kept open. This Court has not expressed any opinion in those matters as well;

- v. It is also made clear that this Court has not adverted to or expressed any opinion with regard to the orders passed in O.S.No.960/2021, which are the subject matter of the connected appeal pending before this Court in MFA.No.3559/2022. The observations and opinion expressed by this Court while allowing MFA.No.6449/2026 in respect of I.A.No.II are confined solely to the limited aspect of non-alienation of the 'B' schedule property;
- vi. Learned counsel for respondent Nos.1 and 2, who are defendant Nos.1 and 2 before the trial Court, shall file an undertaking by way



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of an affidavit of his clients within a period of two weeks, stating that, in the event the appellant-plaintiff succeeds in the suit, they shall not claim any equity in respect of any construction put up by them over the suit schedule property. It shall be further undertaken that, in the event the appellant - plaintiff succeeds in the suit, respondent Nos.1 and 2 - defendant Nos.1 and 2 shall, if so required, demolish such construction at their own cost;

vii. It is needless mention that this Court has not expressed any opinion on the merits of the matter;

viii. All contentions of the parties are kept open;

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