



CNR: KAHC010721102025

NC: 2026:KHC:37082
MFA No. 8226 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

MISCELLANEOUS FIRST APPEAL NO. 8226 OF 2025 (CPC)

BETWEEN:

SRI. M.H. HANUMANTHAPPA
S/O HANUMANTHAIAH,
AGED ABOUT 73 YEARS,
R/AT NO. GANIGARA BEDI,
MAGADI TOWN, MAGADI TALUK,
RAMANAGAR DISTRICT.

...APPELLANT

(BY SRI. ANANTHARAMA C, ADVOCATE)

AND:

SRI. DODDAHUCHHE GOWDA
S/O LATE RAMACHANDRA GOWDA,
AGED ABOUT 50 YEARS,
RESIDING AT NO. UNGRA VILLAGE
YADAVANI POST, AMRUTHURU HOBLI,
KUNIGAL TALUK, TUMKUR DISTRICT - 572 130.

...RESPONDENT

(BY SRI. PRAKASH S. SURYAVANSHI, ADVOCATE)

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DT.10.10.2025 PASSED ON IA NO.1 IN
O.S.NO.8138/2024 ON THE FILE OF THE XL ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE, BENGALURU(CCH-41) ALLOWING

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



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THE IA NO.1 FILED U/O.39 RULE 1 AND 2 R/W SEC.151 OF CPC, 1908.

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 appellant/defendant challenging the order dated 10.10.2025 passed in O.S.No.8138/23024 by the learned trial judge in IA.No.1 filed under Order XXXIX Rule 1 and 2 read with Section 151 of CPC.

2. It is the contention of learned counsel for the appellant/defendant that the suit came to be filed by the respondent/plaintiff for permanent injunction. Along with the suit, an application came to be filed in IA.No.1 for grant of temporary injunction by way of an ad-interim ex-parte order; the trial Court passed an order directing both parties to maintain status quo. Suit summons were issued.



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The appellant/defendant appeared before the Court and filed his written statement, and it is contended that he has filed a memo on 28.08.2025 adopting the written statement as objections to IA.No.1 whereas the learned trial judge in its order dated 18.09.2025 has passed the following order.

"Case called out.

No representation for defendant.

L/c for plaintiff present.

It is seen from the records that the matter was earlier reserved for orders on I.A.No.1 and 2 and in the meanwhile, the defendant filed I.A.No.3 seeking permission to file written statement and he has not filed objection to I.A.No.1 and 2. Hence, the matter is reserved for orders on I.A.No.1 and 2 and P/c seeks time to file objection to I.A.No.3.

For orders on I.A.No.1 and 2 and objection to I.A.No.3 by 10.10.2025."

3. Thereafter, posted for passing of orders on the said application IA.Nos.1 and 2. While passing the



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impugned order on IA.No.1, at paragraph No.3, the trial Court has noted that the appellant/defendant has filed a memo adopting the written statement as objections to IA.No.1; at paragraph No.4, it is held as under:

"4. Heard learned counsel for plaintiff on I.A.No.1. in the absence of representation for defendant this Court could not have the benefit of the hearing the counsel for defendant on I.A.No.1."

4. And in pursuance thereto, the trial Court has allowed the application of the respondent/plaintiff, restraining the defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property by way of temporary injunction. Therefore, he contends that the trial Court has not heard the appellant/defendant and has proceeded to pass orders on the merits of the matter. Hence, he seeks an opportunity to be heard before the trial Court by setting aside the present order.



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5. Per contra, learned counsel appearing for the respondent/plaintiff contends that the appellant/defendant was present before the Court and argued the matter, and after hearing him, the trial Court has passed the order. Therefore, there is no illegality or perversity in the order passed by the trial Court. He seeks to sustain the same. Consequently, seeks for dismissal of the appeal.

6. Having heard learned counsel for the appellant/defendant and learned counsel for the respondent/plaintiff, the short point for consideration before this Court is:

"Whether the trial Court has provided a reasonable opportunity of hearing or has heard the appellant/defendant before passing the order on IA No.1."

7. Having perused the order sheet dated 18.09.2025, apparently it is clear that the trial Court had listed the matter for passing of orders pursuant thereto on appearance of the defendant and filing objections. Despite



the appellant/defendant filing objections to the IA for adopting the written statement, has erroneously come to a conclusion that the defendant has not filed objections to IA Nos.1 and 2 and reserved the matter for passing of orders on IA.Nos.1 and 2. But while passing the impugned order at paragraph No.3 it is thereafter realized on going through the records that objections to IA.No. 1 has been filed by way of adopting the written statement by the appellant/defendant. It is also thereafter referred to as "*In the absence of representation for defendant this Court could not have the benefit of the hearing the counsel for defendant on IA.No.1.*"

8. It is the fundamental rule of law that while passing an order on any application, principles of natural justice requires to be followed by giving an opportunity of hearing to the parties concerned. In the present case on hand, the trial Court had lost sight of the fact that the appellant/defendant had filed objections in its order sheet dated 18.09.2025 but thereafter, while passing the



impugned order and going through the records, probably realised that the objections to IA.No. 1 is filed by way of adopting the written statement. But no opportunity was given to the appellant/defendant to address his arguments. Therefore, on the short point of not providing an opportunity to the defendant to address his arguments and having held that the objections to IA is not filed, trial Court having proceeded further, is perverse and illegal as an opportunity is not given to the appellant/defendant to address his arguments on the said application. In view of the discussions made herein above, this Court deems it appropriate to set aside the order and direct the trial Court to rehear the matter and pass suitable orders on IA.No.1 afresh. Accordingly, I pass the following order.

ORDER

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



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2) Impugned order passed on IA.No.1 by the learned trial Judge is hereby set aside. The trial Court, shall hear application - IA.No.1 once again and pass suitable orders.

3) Both parties to maintain status quo as on today with regard to suit schedule property.

4) It is needless to mention this Court has not expressed any opinion on the merits of the matter.

5) All the contentions of the parties are kept open.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE