



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 9TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
REGULAR FIRST APPEAL NO. 2878 OF 2025 (INJ)

BETWEEN:

1. N. MUNIRAJU
S/O LATE NARAYANAPPA,
AGED ABOUT 34 YEARS,
R/AT NO.31/B, GOVT. SCHOOL ROAD
R.V. COLLEGE POST,
BENGALURU – 560 059.
2. RAGHAVENDRA D.K
S/O KRISHNAYYA.B
AGED ABOUT 43 YEARS
R/AT NO.103, 6TH CROSS,
CONCORD LAYOUT, RAJKUMAR ROAD
BENGALURU – 560 059.
3. MRS. GEETHA K L,
W/O. LOKESH K S,
R/AT NO.103, 6TH CROSS
DR. RAJKUMAR ROAD
NEAR SRINIVASPURA
CONCORD LAYOUT, R V COLLEGE POST,
BENGALURU – 560 059.

...APPELLANTS

(BY SRI. SHARATH S GOWDA, ADVOCATE)

Digitally
signed by
THEJAS
KUMAR N
Location:
HIGH
COURT OF
KARNATAKA



AND:

1. VIJAYANATH CHILLARGE
S/O LATE SHANKARAPPA CHILLARGE
AGED ABOUT 86 YEARS
RETIRED JOINT DIRECTOR AND SECRETARY,
BOARD OF TECHNICAL EDUCATION,
R/AT NO, 8-9-844, MATHRUSADAN,
NEW HOUSING CPLONY,
NEW LAKSHMI TEMPLE,
BIDAR - 585 401.

PRESENTLY R/AT NO.34,
PADMA NILAYA,
M.E.G LAYOUT,
NARAYNAPURA,
MAHADEVAPURA,
BANGALORE – 560 016.

...RESPONDENT

(BY SRI. N B NIJALINGAPPA, ADVOCATE FOR R1)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 16.10.2024 PASSED IN
OS NO.25254/2024 ON THE FILE OF LXXII ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT, BENGALURU.,

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR



ORAL JUDGMENT

Though the appeal is listed for admission, with the consent of both the learned counsel appearing on behalf of the parties, the matter is taken up for final disposal.

2. This Regular First Appeal is filed by the appellants /defendant No.1 calling in question the judgment and decree dated 16.10.2024 passed in O.S No.25254/2024 by the LXXII Additional City Civil and Sessions Judge, Mayo Hall, Bengaluru (CCH-73), whereby the suit filed for permanent injunction is decreed.

3. For the sake of convenience and easy reference, the parties are referred to as per their rankings before the Trial Court.

4. The plaintiff filed a suit for permanent injunction and mandatory injunction against the defendant/appellant No.1. The Trial Court decreed the suit, placing defendant ex-parte.



5. Learned counsel for the defendant submitted that without issuing notice or summons to the defendant, the Trial Court placed the defendant ex-parte on the observation that a caveat notice had been served on the counsel for the defendant. Consequently, the Trial Court proceeded with the trial and passed the impugned ex-parte decree.

6. It is submitted that the defendant was not personally served with notice. Mere service of notice on the counsel for the defendant does not constitute sufficient service upon the defendant. Therefore, it is submitted that the defendant was not duly served with notice. Hence, it is prayed that the judgment and decree passed by the Trial Court be set aside by allowing the present appeal.

7. On the other hand, learned counsel for the respondent/plaintiff submitted that in the suit, notice was duly served on the counsel for the defendant, who had filed caveat on behalf of the defendant and that such service amounts to sufficient service. Further submitted that the Trial Court correctly appreciated this fact and



passed the decree, which requires no interference by this Court.

8. Upon hearing the learned counsel appearing on behalf of both the parties and perusing the materials available on record, the following points arise for my consideration:

- i) Whether under the facts and circumstances involved in the case, service of notice on the caveator / counsel for the defendant in the suit without serving notice on the defendant personally as per Order V Rule 1 and Order VI Rules 14 and 14A of CPC can be construed as sufficient service of notice on the defendant so as to place the defendant ex-parte?*
- ii) Whether judgment and decree passed by the trial Court requires interference by this Court?*

9. The learned counsel for the appellants has filed the order sheet maintained in O.S No.25254/2024 which



reflects that on 18.03.2024, the defendant / caveator filed a caveat through his advocate. When the notice was issued to the caveator, it was returned unserved. Therefore, on 03.04.2024, the Trial Court ordered that the notice be served on the counsel for the caveator instead of serving the caveator/defendant personally. It is further observed that, on 18.04.2024 upon a memo filed by the plaintiff, notice was served on the counsel for the caveator. On the basis of this service, the Trial court held that there was a sufficient service of notice on the defendant but the fact remains that the defendant was not personally served with the notice or summons in the suit.

10. In this context, merely because notice was issued on the counsel for the caveator/defendant, it cannot be construed as sufficient service of notice on the defendant. The Trial Court in the suit ought to have ensured that the defendant was personally served with the suit summons. But as per the order sheet produced by the counsel for the appellants, it is undisputed that notice was



not served on the defendant personally. Therefore, placing the defendant as ex-parte is not correct. When the notice was not served on the defendant properly and by placing the defendant as ex-parte and proceeded with the trial and passing the decree amounts to violation of principle of natural justice. Therefore, the judgment and decree passed by the Trial Court is liable to be set aside. Accordingly, I answer point Nos. 1 and 2 in the "**Affirmative**".

11. In the result, I proceed to pass the following:

ORDER

- i. The Regular First Appeal is **allowed**.
- ii. The *ex-parte* judgment and decree dated 16.10.2024 passed in O.S No.25254/2024 by the LXXII Additional City Civil and Sessions Judge, Mayo Hall, Bengaluru (CCH-73), is hereby set aside.
- iii. The matter is remanded to the Trial Court for fresh consideration in accordance with law.



- iv. Both the parties are directed to appear before the Trial Court on 29.07.2026 without expecting notice from the Trial Court.
- v. The Trial Court is directed to dispose of the suit within nine (9) months from 29.07.2026 from today in accordance with law.

In view of disposal of the appeal, pending IA's, if any, shall stand disposed of.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE