IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE H.P.SANDESH

MISCELLANEOUS FIRST APPEAL NO. 7931 OF 2024 (CPC)

BETWEEN:

1. PURAVANKARA LTD.,
A COMPANY INCORPORATED UNDER
PROVISIONS OF THE COMPANEIS ACT, 1956
HAVING ITS REGISTERED OFFICE
AT 130/1, ULSOOR ROAD
BANGALORE-560 043
RERPESNETED BY ITS AUTHORIZES
SIGNATORY MS. SHREYA V.K. JAIN.

…APPELLANT

(BY SRI. UDAYA HOLLA, SENIOR COUNSEL FOR
SRI JOSEPH ANTHONY, ADVOCATE)

AND:

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

1. SRI KRISHNAPPA
S/O LATE LINGAPPA
AGED ABOUT 70 YEARS

2. SMT. PREMA
D/O KRISHNAPPA
AGED ABOUT 50 YEARS

3. SMT. JAYALAKSHMI
D/O KRISHNAPPA
AGED ABOUT 48 YEARS

4. SMT. MALATHI
D/O KRISHNAPPA
AGED ABOUT 46 YEARS

5. SMT. SWETHA
W/O LATE VASANTHA
AGED ABOUT 38 YEARS

6. MASTER SUMANTH
S/O LATE VASANTHA
AGED MINOR
RERPESENTED BY RESPONDENT NO.5
HIS NATURAL GUARDIAN

7. MASTER UDBHAV
S/O LATE VASANTHA
AGED MAJOR
REPRESENTED BY RESPONDENT NO.5
HIS NATURAL GUARDIAN

8. SMT. REKHA
D/O KRISHNAPPA
AGED ABOUT 44 YEARS

9. SMT. PAVITHRA
D/O KRISHNAPPA
AGED ABOUT 38 YEARS

RESPONDENTS NO.1 TO 9
ALL RESIDING AT
THALAGHATTAPURA VILLAGE
POLICE STATION ROAD
KANAKAPURA MAIN ROAD
BANGLAORE-560 019.

10. SRI LAKSHMAN
S/O CHIKKANNA
AGED ABOUT 63 YEARS
RESIDING AT NO.548
4TH MAIN ROAD
MAHALAKSHMIPURAM
BANGALORE-560 086.

11. SRI SHIVALINGAIAH
S/O SHIVAMADEVAIAH

AGED ABOUT 58 YEARS
NEAR SUBRAMANYA TEMPLE
VENKATAPURA MAIN ROAD
KARNATAKA DEVELOPERS COLONY
BENGALURU-560 034.

…RESPONDENTS

(BY SRI. RAJESH MAHALE, A/W SRI PARIKSHITH MALIYE &
SRI SANDESH C.R., ADVOCATES FOR
SRI D.S. JAYARAJ, ADVOCATE)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF THE CPC, PRAYING TO SET ASIDE THE ORDER DATED 05.11.2024 PASSED ON IA NO.2 IN O.S.NO.1929/2024 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE, BENGALURU RURAL, BENGALURU, ISSUE EXPARTE ORDER OF AD-INTERIM TEMPORARY INJUNCTION, EMERGENT NOTICE ON IA NO.II FILED UNDER ORDER 39 RULE 1 AND 2 OF CPC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL JUDGMENT

Heard learned counsel for the appellant and learned counsel for the respondents.

2. This appeal is filed against ad-interim exparte injunction granted by the Trial Court. This Court vide order dated 12.12.2024 stayed the impugned ad-interim exparte temporary injunction granted considering the judgment of this Court reported in ***VEDANT FASHIONS PVT. LTD. VS. SMT. RAJUL DEVI*** reported in ***2014 SCC ONLINE KAR 7191*** as

well as judgment passed in ***M.F.A.NO.5034/2014*** dated ***20.08.2014*** and so also the judgment in ***MR. R.K. JAIN VS. SRI P.G. CHACKO*** reported in ***AIR 2013 KAR 142.*** Having considered the principles laid down in the judgments as well as considering the order passed by the Trial Court, this Court comes to the conclusion that no reasoned order has been passed in compliance of Order 39 Rule 3 CPC.

3. Now, learned counsel for the respondents appeared before this Court and learned counsel for the appellant would submit that the matter may be remitted to the Trial Court to consider the same within 15 days on merits and they will file written statement and objections before the Trial Court immediately.

4. Learned counsel for the respondent would submit that the order passed by the Trial Court is not to alienate the suit schedule property and the same will not come in the way of the appellant to keep the order till disposal of I.A.

5. Having heard learned counsel for the appellant and learned counsel for the respondents, when this Court has already granted stay of the impugned order, in coming to the

conclusion that there is no compliance of Order 39 Rule 3 CPC, the question of ustaining the order passed by the Trial Court, till disposal does not arise having considered the principles laid down in the judgments referred (supra). Hence, the very contention of the learned counsel for the respondents cannot be accepted. However, taking note of the undertaking given by the learned counsel for the appellant that they will file written statement and objections immediately, the matter may be disposed of by the Trial Court within 15.01.2025. The contention of the learned counsel for the respondents that the order impugned is sustainable in the eye of law cannot be accepted.

6. In view of the discussion made above, I pass the following:

ORDER

(i) The miscellaneous first appeal is disposed of.

(ii) The case pending before the Trial Court can be advanced to 06.01.2025 and the matter shall be heard and the Trial Court is directed to dispose of the same within 15.01.2025.

(iii) The order passed by this Court will be in force, till disposal of I.A. on merits.

Sd/-
(H.P.SANDESH)
JUDGE

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List No.: 1 Sl No.: 21