HC-KAR

NC: 2026:KHC:64539
WP No. 48 of 2021

CNR: KAHC010405992020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 48 OF 2021 (GM-CPC)

BETWEEN:

SRI. PRASANNA V. GHOTAGE
S/O VASUDEV
AGED ABOUT 56 YEARS
R/AT 1088/B PRERANA HOMES
TILAKWADI, DIST. BELAGAVI
KARNATAKA - 590 006.

...PETITIONER

(BY SRI. SARAVANA S, ADVOCATE)

AND:

1. DATTAPRASAD TIRODKAR
S/O RAMNATH,
R/AT HOUSE NO. 1556/A
NAVIGALLI, SHAHPURA
BELAGAVI - 590 003.

2. DAIMLER FINANCIAL SERVICES PVT. LTD.,
MERCEEDES BENZ INDIA PVT. LTD.,
HAVING ITS OFFICE AT E-3,
MIDC CHAKAN, PHASE-III
CHAKAN INDUSRIAL AREA,
KURULINIGHOJE, TAL KHED
PUNE - 410 501, MAHARASHTRA
ALSO HAVING ITS YARD
AT NO. 63, SAKAMA MUNIYAPPA LAYOUT

Digitally signed by Justice
SACHIN SHANKAR MAGADUM
25/11/2026

BEHIND CANARA BANK
CHANNASANDRA MAIN ROAD,
KALKERE, HORAMAVU (P)
BENGALURU - 560 043.

…RESPONDENTS

(R2 - DAIMLER FINANCIAL SERVICES PVT. LTD., BENGALURU - SERVED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDERS DTD.14.12.2020 TO THE EXTENT THERE IS A REFUSAL TO GRANT AN INJUNCTION BEFORE ISSUANCE OF NOTICE UNDER ORDER 39 RULE 3 OF CPC IN IA NO.1 AS PER ANNEXURE-F IN O.S.NO.6241/2020 ON THE FILE OF THE XVII ADDL CITY CIVIL JUDGE AND SESSIONS BENGALURU AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Captioned writ petition is filed by the plaintiff assailing the order dated 14.12.2020, whereby the learned Trial Judge, upon consideration of the prima facie material placed on record, has declined to grant an ex-parte ad-interim order of temporary injunction.

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2. Heard learned counsel appearing for the petitioner and perused the material on record.

3. This Court is of the considered view that the present petition is not maintainable on two counts. Firstly, the order declining to grant an ex-parte ad-interim order of temporary injunction is amenable to challenge by way of an appeal under Order XLIII of the Code of Civil Procedure, 1908 (for short 'the CPC'). The petitioner, therefore, cannot bypass the statutory appellate remedy and invoke the writ jurisdiction of this Court.

4. Secondly, even on merits, the present petition has been rendered infructuous by efflux of time. The order under challenge was passed on 14.12.2020, whereas the matter is being considered by this Court in November 2026. The petitioner, who approached this Court seeking urgent intervention on the premise that an ex-parte ad-interim injunction was imminently necessary, has allowed the present proceedings to remain pending for nearly five years. The very urgency which formed the foundation for invoking the extraordinary jurisdiction of this Court has, by passage of time, lost its relevance.

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5. In these circumstances, it was incumbent upon the petitioner/plaintiff to diligently prosecute the application filed under Order XXXIX Rules 1 and 2 of the CPC before the Trial Court and seek appropriate interim protection in accordance with law. The pendency of the present proceedings cannot be permitted to operate as a substitute for prosecuting the interlocutory application before the competent Court.

6. Accordingly, reserving liberty to the petitioner/plaintiff to pursue the application filed under Order XXXIX Rules 1 and 2 of the CPC, if the same is still pending consideration, the present writ petition stands ***disposed of***.

All contentions on the merits of the application for temporary injunction are left open to be urged before the Trial Court.

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SACHIN SHANKAR MAGADUM
25/11/2026

(SACHIN SHANKAR MAGADUM)
JUDGE

HDK
List No.: 1 Sl No.: 12