HC-KAR

NC: 2026:KHC:61071
WP No. 31224 of 2026

CNR: KAHC010683542026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 31224 OF 2026 (GM-CPC)

BETWEEN:

1. MR. BASAVARAJU B.P.,
   SON OF LATE PARAMASHIVAIAH B,
   AGED ABOUT 30 YEARS,
   VOKKALIGARA STREET,
   BESAGARAHALLI VILLAGE,
   KOPPA HOBLI, MADDUR TALUK,
   MANDYA DISTRICT - 571 419.

2. SMT. LAKSHMAMMA,
   WIFE OF LATE PARAMASHIVAIAH B,
   AGED ABOUT 59 YEARS,
   VOKKALIGARA STREET,
   BESAGARAHALLI VILLAGE,
   KOPPA HOBLI, MADDUR TALUK,
   MANDYA DISTRICT - 571 419.

...PETITIONERS

(BY SRI. DHANUSH M., ADVOCATE)

Digitally signed by VINUTHA B S
Location: High Court of Karnataka

AND:

1. B.P.SANGAMESHA,
   SON OF LATE PARAMASHIVAIAH,
   AGED ABOUT 35 YEARS,

HIPPO CAMPUS ROAD,
NARASHIMHA NILAYA,
BESAGARAHALLI VILLAGE,
KOPPA HOBLI, MADDUR TALUK,
MANDYA DISTRICT - 571 419.

2. B.P. MADESHA,
SON OF LATE PARAMASHIVAIAH,
AGED ABOUT 35 YEARS,
HIPPO CAMPUS ROAD,
NARASHIMHA NILAYA,
BESAGARAHALLI VILLAGE,
KOPPA HOBLI, MADDUR TALUK,
MANDYA DISTRICT - 571 419.

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH OR SET ASIDE THE ORDER DATED JULY 31, 2026 ON IA NO.5 PASSED IN O.S 429/2025 BY THE PRINCIPAL CIVIL JUDGE AND JMFC, MADDUR REFUSING AN ORDER OF TEMPORARY INJUNCTION FOR RESTRAINING THE RESPONDENTS FROM PUTTING UP FURTHER CONSTRUCTION ON THE SUBJECT PROPERTIES. ANNEXURE A AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL ORDER

The present petition calls in question the order dated 31.07.2026 passed on I.A.No.5 in O.S.No.429/2025, whereby the application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, 'the CPC'), seeking an order of temporary injunction, came to be rejected, as well as the order dated 10.09.2026 passed in M.A.No.33/2026, whereby the appellate Court affirmed the order passed by the Trial Court.

2. Learned counsel appearing for the petitioners submits that the petitioners are the children born to the first wife of B. Paramashivaiah, whereas the defendants are the children born to his second wife. It is submitted that, though settlement talks were held with a view to effecting an equitable partition, the defendants, disregarding the said understanding, have proceeded to alter the nature of one of the suit schedule properties by leasing the same for the purpose of constructing a petrol pump. Such action would result in altering the nature of the property and creating third-party interests. In that view of the matter, it is contended that the Courts below have

committed an error in declining to preserve the nature of the property.

3. Considered the submissions made by the learned counsel for the petitioners and perused the material available on record.

4. The suit is one for partition. The relationship between the parties is in dispute. Admittedly, the revenue entries stand in the names of the defendants, who claim to be in possession of the suit schedule properties. On the basis of such claim, a lease agreement has been entered into for setting up a petrol pump. The claims of the petitioners are required to be established and adjudicated by the Trial Court.

5. Even if a petrol pump is set up and a decree is ultimately passed entitling the petitioners to a share in the property in question, the petitioners would be entitled to claim their proportionate share in the lease rent or take such other action as may be permissible in law. When the relationship between the parties is disputed and their entitlement to a share in the suit schedule property is yet to be established, the income that

is likely to accrue to one of the parties cannot be deprived of, particularly when, in the event of the petitioners succeeding in the suit, they would be entitled to seek mesne profits.

6. Having regard to the fact that the interests of the petitioners are adequately protected, both the Courts below have rightly declined to grant the relief of injunction. It is well settled that, for the grant of an order of temporary injunction under Order XXXIX Rules 1 and 2 of the CPC, the applicant must establish a prima facie case, that the balance of convenience lies in their favour and that refusal of injunction would result in irreparable injury.

7. In the present case, having regard to the disputed relationship between the parties and the fact that their respective entitlements to the suit schedule properties are yet to be adjudicated, the petitioners have failed to establish a prima facie case. The balance of convenience is also not in their favour, particularly when any hardship that may be caused to them can be adequately compensated by way of mesne profits or a proportionate share in the lease rent, subject to their succeeding in the suit. Thus, the essential ingredients for grant

of an order of temporary injunction under Order XXXIX Rules 1 and 2 of the CPC remain unsatisfied.

8. In that view of the matter, this Court finds no error or infirmity in the orders impugned warranting interference.

Accordingly, the writ petition stands ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

SJK
List No.: 1 Sl No.: 8