HC-KAR

NC: 2026:KHC:59511
WP No. 32690 of 2026
C/W WP No. 32722 of 2026

CNR: KAHC010717662026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 32690 OF 2026 (GM-CPC)

C/W

WRIT PETITION NO. 32722 OF 2026 (GM-CPC)

IN WP No. 32690/2026

BETWEEN:

1. MRS. FLORENCE DOLERS MATHIAS
WIFE OF JOSEPH REGINALD MATHIAS
AGED ABOUT 90 YEARS,
PERMANENTLY RESIDING AT
STRATHMORE HOUSE, 23/1,
REST HOUSE ROAD, BENGALURU- 560 001.

2. MRS. MEETA PRABHU
WIFE OF VIJAY PRABHU
AGED ABOUT 50 YEARS,
RESIDING AT WELLINGTON HOUSE,
SUMMER HOUSE ROAD, OOTY,
NILGIRIS DISTRICT 643 001.

...PETITIONERS

(BY SRI. K. S. HARISH, ADVOCATE)

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

AND:

1. MRS. ROSEMARY ALBUQUERQUE
DAUGHTER OF LATE MARY MATHIAS
AGED ABOUT 76 YEARS,
RESIDING AT SUMMER SANDS,

BEACH RESORT, CHOTA MANGALORE,
ULLALA, MANGALORE- 575 020.

2. MS. VIMALA
DAUGHTER OF LATE EUNICE BRITOO
AGED ABOUT 67 YEARS PADMALAYA,
FALNIR ROAD, MANGALORE- 575 001.

3. MR. ALOYSIUS (TONY) BRITTO
SON OF LATE EUNICE BRITOO
AGED ABOUT 65 YEARS.
PADMALAYA, FALNIR ROAD,
MANGALORE- 575001

4. MS. SANDRA DSOUZA
DAUGHTER OF LATE EUNICE BRITOO
AGED ABOUT 63 YEARS
PADMALAYA, FALNIR ROAD,
MANGALORE- 575 001.

5. MS. ROWENA MATHIAS
WIFE OF LATE JOE MATHIAS,
AGED ABOUT 82 YEARS
NO. 23/2, REST HOUSE ROAD,
BENGALURU -560 001

6. MS. MAYA
DAUGHTER OF LATE JOE MATHIAS,
AGED ABOUT 57 YEARS.
NO. 23/2, REST HOUSE ROAD,
BENGALURU-560 001

7. MS. LAILA
DAUGHTER OF LATE JOE MATHIAS,
AGED ABOUT 52 YEARS.
NO. 23/2, REST HOUSE ROAD,
BENGALURU- 560 001.

8. MS. SHAILA MATHIAS
WIFE OF LATE NOEL MATHIAS

AGED ABOUT 73 YEARS.
NO. 004, ASHOK PARK VIEW,
42 DAVIS ROAD, RICHARDS TOWN,
BENGALURU-560 084.

9. MS. NATASHA MATHIAS
DAUGHTER OF LATE NOEL MATHIAS
AGED ABOUT 52 YEARS.
NO. 004, ASHOK PARK VIEW,
42 DAVIS ROAD, RICHARDS TOWN,
BENGALURU-560 084.

10. MR. NIRISH MATHIAS
SON OF LATE NOEL MATHIAS
AGED ABOUT 47 YEARS.
NO. 004, ASHOK PARK VIEW,
42 DAVIS ROAD, RICHARDS TOWN,
BENGALURU- 560 084.

11. MR. ROHIT MATHIAS
SON OF LATE NOEL MATHIAS,
AGED ABOUT 45 YEARS.
NO. 004, ASHOK PARK VIEW,
42 DAVIS ROAD, RICHARDS TOWN,
BENGALURU- 560 084.

12. MS. PATRICIA NORONHA
DAUGHTER OF LATE MARY MATHIAS
AGED ABOUT 82 YEARS
NO. 22/1, REST HOUSE ROAD,
BENGALURU- 560 001.

13. MR. NITHIN NORONHA
SON OF MS. PATRICIA NORONHA
AGED ABOUT 56 YEARS.
NO. 22/1, REST HOUSE ROAD,
BENGALURU- 560 001.

14. MR. ALOK CHANDRA SHETTY
SON OF SITARAM SHETTY

MAJOR RESIDING AT 23,
REST HOUSE ROAD LL
BENGALURU- 560 001.

…RESPONDENTS

(VIDE ORDER DATED 27.10.2026
NOTICE TO RESPONDENTS IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH BY WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER DIRECTION IN THE NATURE OF WRIT, THE ORDER DATED 06.10.2026 PASSED BY THE LXXIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE (CCH-75) IN REFUSING TO GRANT AN AD-INTERIM EX-PARTE ORDER OF TEMPORARY INJUNCTION ON I.A NO. 1 IN O.S NO.26068/2026, PER ANNEXURE-A.

IN WP NO. 32722/2026

BETWEEN:

1. MRS. FLORENCE DOLORES MATHAIAS
   WIFE OF JOSEPH REGINALD MATHIAS
   AGED ABOUT 90 YEARS,
   PERMANENTLY RESIDING AT
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   23/1, REST HOUSE ROAD
   BENGALURU- 560 001

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ULLALA, MANGALORE- 575 020.

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PADMALAYA, FALNIR ROAD,
MANGALORE- 575 001.

3. MR. ALOYSIUS (TONY) BRITTO
SON OF LATE EUNICE BRITOO
AGED ABOUT 65 YEARS.
PADMALAYA, FALNIR ROAD,
MANGALORE-575 001.

4. MS. SANDRA DSOUZA
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SON OF SITARAM SHETTY
MAJOR
RESIDING AT 23,
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...RESPONDENTS

(VIDE ORDER DATED 27.10.2026
NOTICE TO RESPONDENTS IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING QUASH BY WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER DIRECTION IN THE NATURE OF WRIT, THE ORDER DATED 06.10.2026 PASSED BY THE LXXIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE (CCH-75) IN REFUSING TO GRANT AN AD-INTERIM EX-PARTE ORDER OF TEMPORARY INJUNCTION ON I.A NO.2 IN O.S NO.26068/2026, PER ANNEXURE- 'A'.

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

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

ORAL ORDER

1. W.P. No. 32690/2026 is filed challenging the order dated 06.10.2026 passed in O.S. No. 26068/2026, insofar as it relates to the issuance of notice on I.A. No. 1. The said application has been filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, seeking to restrain the defendants from obstructing the plaintiffs' right of way for ingress to and egress from the suit schedule 'A' property through the common passage/area described as the suit schedule 'B' property.

2. W.P. No. 32722/2026 is filed challenging the order dated 06.10.2026 passed in O.S. No. 26068/2026, insofar as it relates to the issuance of notice on I.A. No. 2. The said application has been filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, seeking to restrain the defendants from creating any revenue entries in respect of, or creating any third-party interest over, the suit schedule 'B' property.

3. Since both petitions arise out of the order passed in O.S. No. 26068/2026, they are heard together and are being disposed of by this common order.

4. Learned counsel appearing for the petitioners submits that the petitioners have instituted a suit for permanent injunction to restrain the defendants from interfering with their rights. It is submitted that I.A. No. 1 was filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, seeking to restrain the defendants from obstructing the plaintiffs' right of way for ingress to and egress from the suit schedule 'A' property through the common passage/area described as the suit schedule 'B' property.

4.1 It is further submitted that petitioner No. 1 is aged 90 years and that the obstruction is preventing the petitioners from using the common passage, thereby impeding their access to the hospital in the event of a medical emergency. Learned counsel submits that the documents produced along with the plaint establish a prima facie case and that, unless the defendants are restrained by an order of injunction, the petitioners would suffer irreparable loss.

4.2 Drawing the attention of this Court to the photographs placed on record, learned counsel further submits that the defendants have parked their vehicles in the common passage with a view to obstructing access to the petitioners.

5. Considered the submissions made by the learned counsel for the petitioners and perused the documents on record.

6. In view of the limited order that this Court proposes to pass, notice to respondents is dispensed with.

7. I.A. No. 1, filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, is pending consideration before the Trial Court. If the contentions urged by learned counsel for the petitioners were to be examined and adjudicated upon in these proceedings, it may prejudice the interests of both parties.

8. Prima facie, a case is made out for restraining the defendants from obstructing the plaintiffs' right of way for ingress to and egress from the suit schedule 'A' property through the common passage/area described as the suit schedule 'B' property. Having regard to the advanced age of

plaintiff No. 1, permitting such obstruction to continue may impede access to medical facilities in the event of an emergency. On the other hand, restraining the defendants from causing such obstruction, pending consideration of the application by the Trial Court, would not cause any prejudice to them.

9. In view of the reasons assigned hereinabove, the following order is passed:

O R D E R

I. W.P. No. 32690/2026 is ***disposed of*** by restraining the defendants and any person(s) claiming under or through any of the defendants from obstructing the plaintiffs' right of way for ingress to and egress from the suit schedule 'A' property through the common passage/area described as the suit schedule 'B' property, pending consideration of I.A. No. 1, filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, by the Trial Court.

II. W.P. No. 32722/2026 is ***disposed of*** by directing both parties to maintain status quo with regard to the revenue entries pertaining to the suit schedule 'B' property, pending consideration of I.A. No. 2, filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, by the Trial Court.

III. The Trial Court is directed to dispose of I.A. Nos. 1 and 2 within two months from the next date of hearing, i.e., 02.11.2026.

SD/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 18