HC-KAR

NC: 2026:KHC:59827
WP No. 34777 of 2025

CNR: KAHC010738432025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 34777 OF 2025 (GM-CPC)

BETWEEN:

1. SRI. S.K. NANJEGOWDA
   S/O. LATE KEMPEGOWDA,
   AGED ABOUT 57 YEARS,
   AGRICULTURIST.

2. S.K. SHEKHAR,
   S/O. LATE KEMPEGOWDA,
   AGED ABOUT 55 YEARS,
   AGRICULTURIST.

3. S.D. SRINIVAS,
   S/O. DOLLAIAH,
   AGED ABOUT 49 YEARS,
   AGRICULTURIST.

4. SRI. S. MANJUNATH,
   S/O. S.K. SHEKHAR,
   AGED ABOUT 31 YEARS,
   AGRICULTURIST.

   ALL ARE RESIDING OF SANABA VILLAGE,
   AMRUTHA HOBLI, KUNIGAL TALUK,
   TUMKUR DISTRICT - 572 111.

...PETITIONERS

(BY SRI. B.S. JEEVAN KUMAR, ADVOCATE)

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

AND:

SRI. S.N. PUTTEGOWDA
S/O. LATE. PATEL NANJEGOWDA,
AGED ABOUT 63 YEARS,
AGRICULTURIST
R/AT SANABA VILLAGE,
AMRUTHUR HOBLI, KUNIGAL TALUK,
TUMKUR DISTRICT - 572 111.

…RESPONDENT

(BY SRI. VIKRAM A. HULIGOL, SR. COUNSEL FOR
SRI. THYAGARAJA S, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 22.08.2025 PASSED IN MA NO.5/2025 PASSED BY PRINCIPAL SENIOR CIVIL JUDGE AND JMFC AT KUNIGAL (ANNEXURE-G) 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 writ petition impugns the order dated 22.08.2025 passed in M.A. No. 5/2025 by the Principal Senior Civil Judge and JMFC, Kunigal, whereby the petitioner was restrained from interfering with the possession of the suit schedule property.

2. Learned counsel appearing for the petitioner submits that O.S. No. 394/2024 was instituted seeking the relief of permanent injunction, along with an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC), seeking to restrain the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property.

2.1. It is submitted that, after issuance of notice in the suit and the application, a further application came to be filed under Order XXXIX Rules 1 and 2 of the CPC, seeking to restrain the defendants from obstructing the plaintiff, his authorised agents and labourers from carrying out agricultural activities and harvesting the crops standing on the suit schedule property. Upon consideration of the material on record, the Trial Court rejected the said application by order dated 08.01.2025.

2.2. It is further submitted that, in the appeal preferred against the said order, the First Appellate Court, without considering the reasons assigned by the Trial Court, proceeded to grant an order of temporary injunction in terms of the prayer

made in the application filed along with the suit. According to the learned counsel, the relief granted by the First Appellate Court is either in excess of the relief sought in the application under consideration or inconsistent with the prayer made therein. On these grounds, learned counsel submits that the matter warrants reconsideration by the First Appellate Court.

3. Per contra, learned Senior Counsel appearing for respondent No. 1 on caveat submits that the First Appellate Court considered I.A. No. 1 filed along with the suit and granted an order of injunction restraining interference with the suit schedule property. It is further submitted that, if this Court is inclined to remand the matter for reconsideration, such reconsideration may be undertaken without being influenced by the observations made in the impugned orders.

4. Considered the submissions made by learned counsel for the parties and perused the material on record.

5. The suit is one for permanent injunction, accompanied by an application under Order XXXIX Rules 1 and 2 of the CPC, seeking to restrain the defendants from

interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property. Notice was ordered on the said application as well as in the suit. Subsequently, a further application came to be filed under Order XXXIX Rules 1 and 2 of the CPC, seeking to restrain the defendants from obstructing the plaintiff, his authorised agents and labourers from carrying out agricultural activities and harvesting the crops standing on the suit schedule property. Objections were filed to the said application, which was rejected by the Trial Court by order dated 08.01.2025.

5.1. In the appeal preferred against the said order, the First Appellate Court proceeded to consider the prayer made in I.A. No. 1, which sought to restrain the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, instead of considering the prayer made in the subsequent application seeking to restrain the defendants from obstructing agricultural activities and harvesting of crops. Prima facie, it appears that the First Appellate Court misdirected itself by considering I.A. No. 1,

which had not been adjudicated upon by the Trial Court and is stated to be pending consideration before it.

5.2. For the aforesaid reasons, the order passed by the First Appellate Court cannot be sustained and warrants reconsideration. Though the present writ petition challenges only the order passed by the First Appellate Court, in the interest of justice and to facilitate proper adjudication of the pending applications, it is necessary to set aside both the order dated 08.01.2025 passed in O.S. No. 394/2024 and the order dated 22.08.2025 passed in M.A. No. 5/2025 and remit the matter to the Trial Court for fresh consideration.

6. This Court, by order dated 25.04.2026, directed both parties to maintain status quo with regard to possession of the suit schedule property until the Trial Court undertakes the aforesaid exercise, with a view to preserving the property and maintaining the existing state of possession. The said interim arrangement is required to be continued until the pending applications are adjudicated.

7. In the above circumstances, the following:

ORDER

(i) The writ petition is ***allowed***.

(ii) The order dated 08.01.2025 passed in O.S. No. 394/2024 and the order dated 22.08.2025 passed in M.A. No. 5/2025 are hereby set aside.

(iii) The applications filed under Order XXXIX Rules 1 and 2 of CPC are remitted to the Trial Court for fresh consideration and adjudication.

(iv) The Trial Court shall reconsider both the pending applications independently, in accordance with law. The observations made by the Trial Court and the First Appellate Court in the orders impugned herein shall not influence the Trial Court while reconsidering the applications.

(v) Having regard to the fact that the applications have been pending since 2024, the Trial Court is directed to consider and dispose of both pending applications under Order XXXIX Rules 1 and 2 of CPC within an outer limit of six weeks from the date of production of a copy of this order.

(vi) Until the pending applications are considered and disposed of by the Trial Court, the interim order of status quo in respect of possession, as directed by this Court by order dated 25.04.2026, shall continue to operate.

Sd/-
(K. V. ARAVIND)
JUDGE

VN
List No.: 1 Sl No.: 1