

IN THE COURT OF THE XIX ADDL. CITY CIVIL &
SESSIONS JUDGE AT BENGALURU CITY : (CCH-18)

::Present::

Smt. B. Pushpanjali, B.A., LL.M.,
XIX Addl. City Civil & Sessions Judge,
Bengaluru City.

Dated this the 25th day of July, 2026.

O S No.1308/2026

PLAINTIFF

:: Sri Shaneshwara Temple Seva Trust
(Regd.) 60 Feet Road, Kodihalli,
Bengaluru 560 008 Represented by
its Secretary Sri A. Ramanna

(By Sri. Segaran, Advocate)

V/s.

DEFENDANTS

:: 1. Smt. Eramma,
W/o. Late. Gangaraju,
Aged about 69 years,

2. Smt. Nagarathna, D/o. Eramma,
Aged about 54 years,

3. Sathish, S/o. Pullappa, Aged
about 52 years,

4. Smt. Geetha, W/o. Sathish, Aged
about 46 years,

All are residents of No.18/2, 10th
Cross, Behind Royal Manner
Apartments, Kodihalli, H.A.L. III
Stage, Bengaluru 560 008

(By Sri B.P., Advocate)

COMMON ORDER ON I.A. NO.1 & 2

The plaintiff has filed IA No.1 under Order XXXIX Rule 1 & 2 R/w. Section 151 of CPC to pass an ad-interim order of temporary injunction restraining the defendants, their agents, servants, henchmen, labourers, contractors and / or anybody acting under or through them from interfering with the smooth construction activities of the plaintiff in the schedule property pending disposal of the suit.

2. Along with this application, the Secretary of the Trust has sworn to an affidavit contending that the suit is filed for the relief of bare injunction. The plaintiff Trust is owned and possessed the suit schedule property having acquired the same by virtue of grant from the concerned authority. The temple is an old structure constructed about 5-6 decades back and requires renovation of work and in order to expand the construction commenced the Bhoomi Pooja and renovation work. The defendants all of a sudden attempted

to interfere with the lawful possession of the plaintiff over the suit schedule property. The defendants are very influential persons in the locality having the support of men and material. Hence the plaintiff requested to allow the application.

3. The defendants have filed I.A.No.2 under Order XXXIX Rule 4 of CPC to vacate the ad-interim order of temporary injunction granted in favour of the plaintiff.

4. Along with the application, the defendant No.4 had sworn to an affidavit contending that the application filed by the plaintiff is not maintainable either in law or in facts. Originally, the defendants No.1, 2 & 4 are the owners of the ancestral property bearing Sy.No.18/2 measuring 2 acres 18 guntas. The defendant No.3 is the husband of defendant No.4. The B.D.A. (Bangalore Development Authority) vide Order dated 15-07-1971 had issued final notification for the acquisition of the suit property under the Land Acquisition

Act. The schedule property measuring 2 acres 18 guntas had some permanent structures, for which there was representation from the husband of defendant No.1, wherein 12 guntas of land can be de-notified as the said property has permanent structures. The B.D.A. issued an endorsement stating that the said land had been surveyed and an area of 12 guntas had been completely built up with the Khatedar i.e., the family of the defendants. It is further opined that it is difficult to form a layout as the said piece of land is not adjacent to the remaining portion of the layout already formed by the B.D.A. and is completely built up with permanent structures. The endorsement issued by the Special Land Acquisition Officer dated 18-08-1982 reflects the same.

5. In the meantime, the defendants No.1, 2 and 4 have approached the Hon'ble High Court of Karnataka in W.P.No.37834/2025 for quashing the endorsement issued by the State wherein, the representation dated 06-09-2021 by

the said defendants were rejected. The Hon'ble High Court of Karnataka after hearing the matter directed the State, represented by B.D.A. to restrain from taking coercive steps or dispossessing the defendants from the schedule property. The plaintiff being completely aware of the developments, has approached this Court with an ulterior motive of taking undue advantage of the situation and encroaching the land in the name of renovation or construction activity of the Temple. As such, the suit filed by the plaintiff is not maintainable either in law or on facts. The plaintiff has failed to make out a prima-facie case and the balance of convenience lies in favour of the defendants. Hence, requested to reject the application/I.A.No.1 and to allow the I.A.No.2.

6. The defendants have filed objections to I.A.No.1.

7. The plaintiff has filed objections to I.A.No.2.

8. On the basis of rival contentions the common points on I.A.No.1 & 2 that arise for consideration are;

1. Whether plaintiff has made out a prima-facie case?
2. Whether balance of convenience lies in favour of plaintiff ?
3. Whether plaintiff will be put to irreparable loss and injury if the Temporary Injunction order is not granted ?
4. Whether defendants have made out grounds to vacate the ex-parte temporary injunction order ?
5. What order ?

9. Heard argument. Perused the applications, objections and materials on records.

10. For the reasons assigned below, above said points are answered as under;

Point No.1 :: In the Negative

Points No.2 & 3 :: Do not survive for consideration

Point No.4 :: In the Affirmative

Point No.5 :: As per final order for the following;

REASONS

11. POINTS NO.1 & 4 :: These two points are interrelated to each other, hence taken up together for common discussion to avoid repetition and appreciation of facts and materials on record.

The plaintiff represented by the Secretary has filed this suit for permanent injunction restraining the defendants, their agents, servants, henchmen, contractor, coolies and / or anybody acting under or through them from interfering with the peaceful possession and enjoyment, construction/ renovation activities and also from carrying out the renovation / construction activities temple found in the schedule property. This Court vide order dated 23-02-2026 has granted ex-parte temporary injunction. After service of

summons, the defendants appeared before the Court and filed I.A.No.2 for vacation of ex-parte temporary injunction.

12. As the suit is one for permanent injunction and as the plaintiff has sought for an order of temporary injunction, it is the burden on the plaintiff to prove its prima-facie lawful possession over the suit schedule property on the date of the suit. In order to establish the same, the plaintiff had produced the original Trust Deed dated 03-06-2006, original Resolution dated 10-01-2026, certified copy of Final Notification, certified copy of Sketch, original Endorsement dated 21-03-2012 issued by B.D.A., BESCOM Bill, Letter dated 08-01-2026, photographs, CD., NCR, certified copy of plaint in O.S.No.6151/2021, certified copies of order on IAS in O.S.No.6151/2021.

13. On the other hand, the defendants have produced the order of Special Deputy Commissioner for Abolition of Inam, Bengaluru, Kolar, Tumkur, Final Notification dated

15-07-1971, Endorsement by the Special Land Acquisition Officer dated 18-08-1982, copy of order in WP No.37834/2025, photographs.

14. A careful perusal of the documents submitted by both the parties, it indicates that originally the total extent of land in Sy.No.18/2, measuring 2 acres 38 guntas which belongs to the defendants No.1, 2, 4 and husband of defendant No.3. Thereafter, the said land was acquired by the then B.D.A. Later on, an application was filed before the Acquisition Authority for de-notification of 0.12 guntas in the said Survey Number on the ground as the houses are existing in the property. In the meantime, the defendants herein have also approached the Hon'ble High Court of Karnataka against the State of Karnataka and the Acquisition Authorities to direct the Acquisition Authority to consider their representation. The said Writ Petition was came to be disposed off vide order dated 16-12-2025.

15. It is not in dispute that the Sri Shaneshwara Temple is existing in the suit schedule property. The Trust was came to be effected as per the Trust Deed dated 03-06-2006 pertains to the said temple. The temple authorities have also taken the electricity connection to the said property. The Trust Authorities of the plaintiff temple have taken construction / renovation / modification in the suit schedule property. Now the question for consideration arises at this stage is whether the plaintiff had made out a prima-face lawful possession of the suit schedule property. Though the documents reflect the existence of Sri Shaneshwara Temple in the suit schedule property, to establish its prima-facie lawful possession over the suit schedule property, the documents produced by the plaintiff do not reflect the same. In other words, the documents placed before the Court do not prima-facie establish the lawful possession of the suit property by the plaintiff.

16. Mere obtaining electricity connection to the temple do not validate its lawful possession of the suit property. Though it is vehemently argued by the counsel for the plaintiff that the temple is existing about 5-6 decades back. To substantiate the same, except the photographs, few recent electricity bills, nothing is placed on record. On what capacity plaintiff temple came into possession of the suit property is not established. The documents do not reflect that the concerned authorities had granted the suit schedule property in favour of the plaintiff. Mere de-notification of 0.12 guntas of land in the entire property bearing Sy.No.18/2 do not establish the lawful possession of the plaintiff over the suit property.

17. The counsel for the plaintiff vehemently argued that the localities of the area in which the temple is existed have formed Trust and it is constructed in a public place. No doubt, as contended by the plaintiff, the plaintiff-temple might

have been constructed in public place. Mere construction of the temple in a public place do not legalise its lawful possession. On what capacity and who has permitted to construct the temple is not established by any cogent materials at this stage. When it is contended that it is a public property, then all the citizens have entitled to use the property and it is meant for public purpose.

18. Even though the plaintiff contends that Trust Authority have taken up renovation, modification and extension of the construction in the suit property, for which also they have not taken permission from the concerned authority and had not obtained approved plan and licence for the same. The plaintiff had not produced any approved plan and licence of the concerned authority authorising to modify and renovate the building.

19. The law is well settled that even for renovation, modification and construction of additional construction, they

have to take prior permission, sanctioned licence and plan. To establish the same, nothing is placed on record. Therefore, from the above discussion, it is prima-facie discloses that the plaintiff had failed to prove its prima-facie lawful possession of the suit property on the date of the suit. When the plaintiff fails to prove its lawful possession over the suit property, then the question of shifting burden on the defendants does not arise. The defendants have made out grounds to vacate the order of ex-parate temporary injunction. Hence, I answer Point No.1 in the Negative and Point No.4 in the Affirmative.

20. POINTS NO.2 & 3 :: While discussing in points No.1 and 2, this Court has come to the conclusion that the plaintiff fails to make out a prima-facie case in its favour and defendants 2 have made out grounds to vacate the ex-parte order of temporary injunction. Hence, these points do not survive for consideration and answered accordingly.

21. POINT NO.5 :: In view of findings on Points No.1 to 4, I proceed to pass the following;

ORDER

I.A.No.1 dated 20-02-2026 filed by the plaintiff under Order XXXIX Rule 1 & 2 R/w. Section 151 of Code of Civil Procedure are hereby rejected.

I.A.No.2 dated 10-06-2026 filed by the defendants under Order XXXIX Rule 4 of Code of Civil Procedure is hereby allowed and the interim order passed on I.A.No.1 dated 23-02-2026 is vacated.

No order as to costs.

(Dictated to the Stenographer in the open Court, transcribed by her, corrected and pronounced by me in the open Court on this the 25th day of July, 2026.)

(Smt.B. Pushpanjali),
XIX ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU CITY (CCH-18)

