

KARN020007562024



Presented on : 10-06-2024
Registered on : 10-06-2024
Decided on : 30-07-2026
Duration : 02 years, 01 months, 20 days

**IN THE COURT OF THE I ADDL., SENIOR CIVIL JUDGE
AND JMFC., AT RAMANAGARA**

Dated : This the 30th day of July 2026

Present

Smt.Niveditha.T.M.,

BA.L., LL.B.,

I Addl. Senior Civil Judge & JMFC.,
Ramanagara.

M.A.No.14/2024

Appellant/s :-

Smt.Ammayamma,
Aged about 51 years,
W/o. Narayanappa,
R/at: Kayisoppinabeedi,
Ramanagara Town and District

(Rep by Sri.AN., Advocate)

-V/s-

Respondent/s:-

Sri.A.G.Lakshman,
S/o. A.G.Gopala Shetty,
R/at: No.35, 4th C Cross,
5th Block, 3rd Main,
Banashakari, Bengaluru-560 085.

(Rep by Sri.CRS., Advocate)



J U D G M E N T

(Delivered on 30/07/2026)

The appellant/defendant has preferred this appeal under Order XLIII Rule 1(r) R/w Sec.151 of CPC., challenging the orders dated:16.04.2024 passed on I.A.No.I in OS.No.7/2024 by the Prl.Civil Judge and JMFC., Ramanagara.

2. For the sake of convenience, parties are referred to by their ranking before the Trial Court. Appellant is the defendant while respondent is the plaintiff before the Trial Court.

3. The plaintiff has instituted the suit before the Trial Court for the relief of permanent injunction against the defendants in respect of the suit schedule property.

4. Case of the plaintiffs is that, the plaintiff do not know who the defendant is, but she had arrayed him as



respondent No.11 in R.A.No.235/2013-14 before Assistance Commissioner, Ramanagara. Further he has purchased the suit property under registered sale deed dated: 18.06.2007 and his name is also mutated to the suit property. After purchase of the suit property he got it converted in to non-agricultural land and now Khaneshumari property Number is also allotted to suit property and his name is also mutated in the CMC records. Further the appeal preferred by the defendant before Assistance Commissioner, Ramanagara came to be dismissed by Order dated:27.02.2015 and she has not challenged the same till date. Further it is stated that, the defendant of this case had also filed O.S.No.314/2015 before Hon'ble Prl. Civil Judge Court, Ramanagara seeking partition and separate possession, but she intentionally not arrayed him as a party to the suit and her suit also came to be dismissed by Judgment dated:01.08.2018 and she has preferred R.A.No.60/2018 and same is pending for



consideration but till date no stay order is obtained by the defendant and case is posted for Judgment now. Further it is stated that, the defendant is no way related to suit property, and her ancestors have already sold land in Sy. No.126 in favour of Muniyandi and said person sold the land in favour of one Prabhudeva, said Prabhudeva sold the same in favour of Thyagaraju, and this plaintiff is purchaser of the land from Thyagaraju. Further it is stated that, now he is intending to construct compound wall to the suit property but the defendant is obstructing and interfering with his peaceful possession and enjoyment over the suit property. Further he also approached jurisdictional police but they directed to approach Civil Court, therefore he is before this court. Hence, the present IA.

5. In response to the service of summons, the defendant has appeared through their counsel and filed their written



statement and memo to treat the averments of written statement as objection to I.A.No.1 and they contended that the suit of the plaintiff is premature one as because R.A.No.60/2018 is pending for consideration before Hon'ble Additional Senior Civil Judge Court, Ramanagara. Further contended that, in the records of rights for the year 1993 to 1996 in respect of suit property name of her father Thimmaiah was appearing and there is no dispute that suit property is ancestral property of defendant. Further contended that, she is in possession of the suit property with her sisters. She contended that no cause of auction arose to plaintiff to file this suit. Further contended that, as on the date of purchase of property by Muniyandi the suit property was joint family property of the plaintiff and there was no partition effected in their family and therefore she constrained to file suit for partition and separate possession, and even after purchase of the suit property the purchaser will also step in to the



shoes of original purchaser and her suit for partition still not ended. Further denied that the plaintiff is in physical of the suit property and submitted that regarding conversation of the land in to non agricultural land the plaintiff has to prove the same. She contended that the plaintiff by colluding with the revenue officials has got mutated khatha in to his name even though the defendant and her brothers and sisters are in possession of the suit property. Further that the plaintiff if so interested in the suit property he would have got impleaded himself in the suit filed by her or in R.A proceedings. She also contended that there is no purchaser by name Prabhudeva to the land measuring 8 guntas in Sy.No.126/3A of Vaderahalli village, and subsequently he sold the land in favour of C.Thyagaraj but their sale deeds were only on papers and physical possession never handed over by them and till date the defendant and her family members are in peaceful possession of the suit property. She also contended that



suit of the plaintiff is bad for non-joinder of necessary parties and barred by law of limitation. Hence, prays to reject the suit.

6. Inter alia, the plaintiff has filed IA.No.I under Order XXXIX Rules 1 and 2 R/w Sec.151 of C.P.C., seeking an order for temporary injunction. The defendant appeared before the court and filed written statement and filed adoption memo to treat as objection to the IA.No.1. After hearing both sides the learned Trial Judge allowed the application.

7. Being aggrieved by the said order, the appellant/defendant has preferred the appeal on the grounds urged in the appeal memo.

8. After service of notice, plaintiff/respondent appeared before the Court through their counsel and canvassed the arguments.



9. Heard the learned counsel representing the appellant and respondent and perused materials on record.

10. The appellant counsel has relied upon the following citations:

- 1) Gangubai Babiya Chaudhary & Others V/s.Sitaram Bhalchandra Sukhtankar & Others etc, reported in AIR 1983 SC 742;
- 2) The State of Karnataka & Others V/s.S.Venkataraj, reported in AIR 1975 KAR 119;
- 3) Hindustan Petroleum Corpn Ltd., V/s. Sriman Narayan & Others, reported in (2002) 5 SCC 760 and
- 4) Smt.Nirmala V/s. Naveen Chhaggar & Another, reported in 2002 (5) SCC 760,

11. The following points would arise for the consideration of this court:-

- 1. Whether the impugned order passed by the Trial Court in respect of IA.No.I is arbitrary and not in accordance with law?*
- 2. Whether the interference of this court is required?*
- 3. What order?*



12. Finding of this Court on the above points are as follows:-

Point No.1 & 2 :- *In the Negative;*
Point No.3 :- *As per final order
for the following:-*

REASONS

13. **Point No.1 & 2:-** As these two points are interconnected, these points are taken together for common discussion to avoid repetition.

Before proceeding further, I must point out the scope of this court while sitting in Appeal. It is to ascertain as to whether the Trial Court exercised its discretion arbitrarily, perversely or against settled principles of law. It is settled law that while hearing appeal against the discretion exercised by the Trial Court while deciding the application U/o XXXIX Rule 1 and 2 of CPC., the Appellate Court is not expected to substitute its own discretion except where the discretion is shown to have been exercised arbitrarily, capriciously or perversely or against the settled principles of law. Appellate



Court will not reassess the material and seek to reach a conclusion different from the one reached by the court below, if the one reached by that court was reasonably possible view.

14. It is required to be kept in mind that the present Appeal from the impugned order is filed under the provisions of Order XLIII Rule 1(r) of the CPC and challenge in this appeal is a discretionary order passed by the Trial Court under the provisions of Order XXXIX Rules 1 and 2 r/w Sec.151 of CPC. Before proceeding further it is required to be noted that the present appeal is against the refusing of interim relief and the main suit is still pending. If this court elaborately deals with the matter on merits it is likely that the same would prejudice the case of either side. Therefore, it is well settled law that this court is not required to go into the merits of the entire matter at this stage and what is required to be seen is whether the Appellant/Plaintiff has made out a prima-facie case or not for grant of interim injunction.



15. In the decision reported in 1990 (Supplement) – S.C.C - 727 (Wonder Ltd., and another V/s Antox India Pvt., Ltd.), the Hon'ble Supreme Court in para 9 of the said decision, after considering the scope of Order XLIII Rule 1(r) of the CPC in an appeal wherein, the discretionary order passed by the Trial Court was under challenge, held as follows:-

“9. Usually, the prayer for grant of an interlocutory injunction is at a stage when the existence of the legal right asserted by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the Trial on evidence. The court, at this stage, acts on certain well settled principles of administration of this form of interlocutory remedy which is both temporary and discretionary. The object of the interlocutory injunction, it is stated “...is to protect the plaintiff against injury by violation of his rights for which he could not adequately be compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the Trial. The need for such protection must be weighed against the corresponding need of the defendant to be protected



against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the “balance of convenience lies”. The interlocutory remedy is intended to preserve in status quo, the rights of parties which may appear on a prima-facie. The court also, in restraining a defendant from exercising what he considers his legal right but what the plaintiff would like to be prevented, puts into the scales, as a relevant consideration whether the defendant has yet to commence his enterprise or whether he has already been doing so in which latter case considerations somewhat different from those that apply to a case where the defendant is yet to commence his enterprise, are attracted”.

16. So in light of the limited powers, the Appellate Court can interfere with the discretionary order passed by the Trial Court only in exceptional circumstances and the Appellate Court cannot interfere with the exercise of discretion of the court of first instance and substitute its own discretion



except, where the discretion has been shown to have been exercised arbitrarily, capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. In nutshell, an appeal against exercise of discretion is said to be an appeal on principle. To put it differently, the Appellate Court cannot reassess the entire evidence so as to come to its own conclusion contrary to the conclusion arrived at by the Trial Court, if two views are possible.

17. In the case on hand, the appellant/plaintiff had approached the learned Trial Court for the relief of permanent injunction against the defendant in respect of the suit schedule property. She has also filed I.A No.I, U/o XXXIX Rule 1 and 2 of CPC., seeking restraint order against the defendants from not to interfering with the suit schedule property, till the disposal of the suit. The learned Trial Court after going through the application and documents available on record, allowed the said application aggrieved by the said



order appellant/defendant approached this court for interference of the order passed by the learned Trial Court.

18. This is a defendant appeal, wherein IA filed by the respondent in OS.No.7/2024 is allowed by trial court. The suit is filed by the respondent/plaintiff for permanent injunction and it is submitted that, the respondent is not known to the appellant but he is arrayed as 11th respondent in R.A.no.235/2013-2014 before Assistant Commissioner, Ramangara. He purchased the suit schedule property under registered sale deed dated:18.06.2007 and his name is also mutated. After the purchase of the suit schedule property he got it converted into non agricultural land now Khaneshumari number is allotted. His name is entered and mutated in CMC. The appeal filed by the defendant before Assistant Commissioner, Ramanagara came to be dismissed by ordered dated:27.02.2015 and she has not challenged the same till date. The defendant also filed OS.No.314/2015 before



Prl.Civil Judge for partition and separate possession. Wherein this applicant has not been arrayed as party to the suit and her suit came to be dismissed on 01.08.2018. RA No.60/2018 is pending for consideration with respect to the same. Even though the respondent is no related to the suit property and her ancestors sold the property in Sy.No.126 in favour of Muniyandi and person sold the property to Prabhudeva and said Prabhudeva sold the same Thagaraju and this plaintiff purchased the property. Now he is construction the compound wall and suit property. Wherein the defendants obstructing the same.

19. The appellant herein filed objection to the application stating that, the suit of the plaintiff is premature because RA.No.60/2018 pending for consideration. It is further submitted that, records of right for the year 1993-1996 in respect of suit property name of her father Thimmaiah was appearing and there is no any dispute that suit property is



ancestral property of the defendant and she is in possession of the same. There is no partition effected in the family the plaintiff colluding with revenue official got mutated the property in his name and there is no purchaser by name Prabhudeva land measuring 8 guntas in Sy.No.126/3A their sale deed is only on the paper. The plaintiffs are not in the possession and the defendant are in possession of the suit schedule property. Hence, prays to dismiss the application.

20. The appellant has filed his appeal memo stating that the trial court has failed to look into the scope and object of the partition suit wherein the appellant and her sister have filed a partition suit in OS.No.314/2015. Therefore, the temporary injunction granted by the trial court is not proper. It is one of the ground that, the trial court has failed to know the point of law that the subsequent purchaser has stepped into the shoe of the vendor, where the vendor of the respondent is the party in RA proceedings and there is material irregularity and



illegality the court failed to protect the physical possession and enjoyment of the joint family members. The respondent is herein also party as respondent No.20 in RA.No.60/2018, wherein the right of the private party involved in the appeal.

21. In this case, the contention taken by the respondent before the trial court is that, the plaintiff respondent is in possession of the property wherein he recently started construction compound wall to his property but the defendant are trying to obstruct the same. It is not disputed that, original suit filed for partition and separate possession wherein the said suit was dismissed and RA is also pending. The plaintiff/respondent has produced photographs wherein the compound wall almost completed. The judgment of OS.No.314/2015 is also produced wherein the trial court has observed that, there is a dispute regarding ancestral property that, entire 25 guntas in Sy.No.126/5 sold to different persons in 1993-1996 and nothing in the name of the



plaintiff's father Thimmaiah. Therefore, it is during the life time of Thimmaiah the entire 25 guntas been sold to different persons by Thimmaiah and his sons. The suit is filed by the respondent for permanent injunction trial court. There is no dispute regarding possession of the property. Only contention is that, they are putting up the compound wall. In this case the respondent has made out prima-faice case that the defendants are interfering with the possession of the plaintiff /respondent. Only ground of the appellant is that, RA is pending. The suit for partition has been dismissed by the court. As I have mentioned above, therefore, the appellant herein failed to prove the irregularity of the order of the trial court. Accordingly, there is no ground made out by the appellant/defendant has sought for in the present petition. Therefore, the findings arrived by the learned Trial Court in its order on I.A No.I which is under challenge in this appeal is founded on the right appreciation of documents and it is a well reasoned order. Therefore, there is no ground to interfere



with the findings arrived at by the learned Trial Court on I.A.No.I. Therefore, in view of the reasons discussed above, these **Points are answered in the “Negative”**.

22. **Point No.3:-** In view of my findings on the above Points No.1 and 2, I proceed to pass the following:

ORDER

The Miscellaneous Appeal filed by the appellant/defendant is hereby dismissed.

The impugned order passed by the learned Prl.Civil Judge and JMFC., Ramanagara in OS.No.7/2024 dated:16.04.2024 on I.A.No.I is hereby confirmed.

Office is hereby directed to send the copy of this judgment for perusal of the trial court forthwith.

(Dictated to the Stenographer in-part and directly on computer, typed by him, then corrected by me and then pronounced in the open Court on this the 30th day of July 2026)

(Smt.Niveditha.T.M)
1st Addl. Senior Civil Judge & JMFC.,
Ramanagaram.