

KABR510008102022



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

PRESENT:

Sri. Arun Kumar.G. B.A., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

Dated this the 20th day of November 2024

M.A.No.1/2022 (Old No.32/2020)

- Appellant/s** : 1. Palekammadevi Gramabiruddhi Trust,
Appasandra Village,
Jadigenahalli Hobli,
Hosakote Taluk,
Bengaluru Rural District,
Rep.by its President,
Sri.M.Gopal,
S/o Muniyappa,
Aged about 51 years,
2. Sri.M.Gopal,
S/o Muniyappa,
Aged about 51 years,
President,
3. Sri.Kariyappa,
S/o Muniyappa,
Aged about 60 years,
Vice President,
4. Sri.V.Nagesh,
S/o Venkateshappa,
Aged about 25 years,
Trustee,

5. Sri.A.Devaraj,
S/o Appayappa,
Aged about 30 years,
6. Sri.Srinivas,
S/o Kempanna,
Aged about 32 years,
7. Sri.Muniraju V,
S/o Venkatarayappa,
Aged about 40 years,
8. Sri.Venkateshappa,
S/o Narayanappa,
Aged about 45 years,
9. Sri.Sathish,
S/o Annayappa,
Aged about 38 years,
10. Sri.C.Gangaiah,
S/o Channappa,
Aged about 35 years,
11. Smt.Shobha,
W/o Shanthakumar,
Aged about 40 years,
12. Sri.Gopalappa,
S/o Thimmaiah,
Aged about 55 years,

All are R/at Appasandra Village,
Jadigenahalli Hobli,
Hosakote Taluk,
Bengaluru Rural District.

(By Sri.B.M.H., Advocate)

- V/s -

Respondent/s : 1. Sri.Sri.Sri.Pilekamba Temple

Development Trust,
Appasandra Village,
Jadigenahalli Hobli,
Hosakote Taluk,
Bengaluru Rural District,
Rep.by its President,
Sri.M.Narayanaswamy
S/o Late.Muniyappa,
Aged about 50 years,

2. Sri.M.Narayanaswamy
S/o Late.Muniyappa,
Aged about 50 years,
3. Sri.Yaliappa,
S/o Late.Nanjappa,
Aged about 65 years,
4. Sri.K.Shankarappa,
S/o Kempanna,
Aged about 45 years,
5. Sri.K.Ramachandra,
S/o Late.Kempanna,
Aged about 45 years,
6. Sri.Ramaiah,
S/o Late.Munishamegowda,
Aged about 65 years,
7. Sri.Krishnappa,
S/o Late.Muniyappa,
Aged about 48 years,
8. Smt.Deepa,
W/o Manjunath,
Aged about 35 years,
9. Sri.Munivenkataramanappa,
S/o Muniyappa,
Aged about 42 years,

10. Sri.Ravibabu,
S/o Anjinappa,
Aged about 39 years,
11. Sri.Ramjini,
S/o Krishnappa,
Aged about 35 years,
12. Sri.Lakshmana N,
S/o Late.Narayanappa,
Aged about 35 years,

All are R/at Appasandra Village,
Jadigenahalli Hobli,
Hosakote Taluk,
Bengaluru Rural District.

(Exparte)

Date and Nature of the Decree/order appealed against.	Order dated: 14-02-2020 passed on I.A.No.1 filed in O.S.No.304/2018 on the file of Prl. Civil Judge and JMFC, Hosakote.		
Date of institution of the appeal:	04-03-2020		
Date of disposal	20-11-2024		
Duration of the appeal	Years	Months	Days
	04	08	16

(Arun Kumar.G)
Senior Civil Judge & JMFC,
Hosakote.

J U D G M E N T

The present appeal is filed by the appellants/plaintiffs under Order 43 Rule 1(r) of CPC against the respondents/defendants challenging the order passed by the Prl. Civil Judge and JMFC, Hosakote on I.A.No.1 filed U/o 39 Rule 1 and 2 of CPC dated 14-02-2020.

2. The appellants/plaintiffs before the trial court have filed I.A.No.1 U/o 39 Rule 1 and 2 R/w Section 151 of CPC with a prayer to issue an ad-interim order of temporary injunction restraining the respondents/defendants from interfering with the management and administration of Palekammadevi Temple/Pilekamba Temple, situated at Appasandra Village till disposal of the suit.

3. In this appeal the parties are referred to as per their ranks assigned to them in O.S.No.304/2018.

4. It is the case of the appellants/plaintiffs that, the Pilekamba temple existing in Appasandra Village was very old and dilapidated. The reconstruction of the temple was undertaken in the year 2001-02 by the plaintiff No.2. He was

appointed as convener from several years as per the meeting held by the villagers. The plaintiff trust was registered on 25-8-2018. The defendant No.2 with animosity and ill-will against the plaintiffs has illegally registered a trust in the name of Sri. Pilekamba Temple Development Trust on 17-9-2018 in respect of very same plaintiff No.1 trust. Now, the defendant No.2 to 12 are trying to interfere in the administration of the temple claiming that they are trustees of the temple. The defendants at no point of time were in management or administration of the said temple. Hence, they filed the above suit and maintained I.A.No.I under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking an order of temporary injunction against the defendants restraining them from interfering with the management and administration of Palekammadevi Temple/Pilekamba Temple, situated at Appasandra Village till disposal of the suit.

5. On the other hand, the defendants filed written statement by admitting the existence of Pilekamba Temple and further contended that the temple was old and required construction and the defendants have entrusted the work to the

plaintiff No.2 who is a civil contractor in the year 2001-02 for reconstruction. The plaintiff No.2 taking undue advantage of the same got up documents in his name. The plaintiff No.1 trust states that it is a Gramabhiruddi Trust means the village development trust. But, the plaintiff No.1 is not the owner and not in possession of the suit schedule temple. The temple is existed in a private land bearing Sy.No.1. Hence on other grounds, pray to dismiss the I.A.No.1.

6. After hearing the arguments and on appreciation of the materials placed before it, the trial court has rejected I.A.No.1 filed by the plaintiffs.

7. Being aggrieved by the said order dated 14-02-2020 by rejecting I.A.No.1, the plaintiffs have preferred the present miscellaneous appeal on the grounds as set forth in the appeal memorandum.

8. Grounds to the appeal.

The trial court has passed an order on I.A.No.1 is oppose to law, facts and probability of the case. The impugned order passed by the trial court is illegal and without appreciating the

pleadings and documents produced by the plaintiffs. The trial court ought to have noticed the tax demand registers produced by the plaintiffs from 2013-14 to 2018-19 shows the name of temple with the plaintiff No.2 which shows the possession with the plaintiff.

The trial court has failed to notice that the plaintiffs had obtained no objection from the gram panchayath for getting the power connection which shows that the plaintiffs have prima facie case. Further, the plaintiff trust was registered much earlier to the defendant's trust and formation of the defendant's trust is with ulterior motive in view of the political rivalry with plaintiff No.2.

The court below has grossly erred in holding that plaintiff No.2 was entrusted with the construction of the temple work without going in to the trial. The impugned order passed by the trial court is perverse, illegal and the same is liable to be set aside. Hence, order of the trial court calls for interference by this court. Hence, prays to allow the appeal.

9. After registration of appeal, the respondents have not appeared before this court and not contested the appeal by filing objections.

10. Heard and perused the available documents.

11. The points that would arise for my consideration are as follows:-

1. Whether the impugned order under appeal suffers from any irregularities which necessitates of interference by this court?

2. What order or decree?

12. My findings on the above points are as under:-

Point No. 1: In the Negative,

Point No. 2: As per the final order
for the following;

REASONS

13. **Point No.1:-** The above appeal is filed by the appellants/plaintiffs against the orders passed by the Prl. Civil Judge and JMFC, Hosakote in O.S.No.304/2018 dated 14-02-2020 on I.A.No.1. It is the contention of the appellants that the trial court without considering the available materials on record has rejected the application. As per documents produced before the trial court the plaintiff trust is in possession and enjoyment of Palekammadevi Temple. Though the notice was served on the respondents, they remain absent and placed exparte.

14. The appellants in order to prove that the defendants are causing interference with the management and administration of Palekammadevi Temple situated at Appasandra Village, they have produced the copy of assessment demand register extract, copy of no due certificate issued by the Doddanallala Grama Panchayath, Trust Deed dated 25-8-2018, another Trust Deed dated 17-9-2018 under the name and style as Sri. Sri. Sri. Pilekamba Temple Development Trust which is alleged to be established by the defendants.

15. On perusal of available records and the arguments canvased by the appellants clearly goes to show that as per demand register extract, the plaintiff is a convener of the said Palekammadevi Temple and it is an admitted fact that he is renovating the said temple under the trust. The defendants without having any valid right over the said trust they have created the alleged trust deed and causing obstructions to their peaceful management of the said committee.

16. The trial court in its impugned order has opined that the trust which was formed by the plaintiff and others is for the development of village and trust established by the defendants

is for the development of temple. Both the trusts formed by the plaintiff and defendants are having different purpose and their activities are also different. As per trust deed formed by the defendants is for the development and activities of Pilekamba Temple. Hence, at this stage the appellants have not produced any documents to show that they are having prima facie case and balance of convenience.

17. As per documents the balance of convenience is lies in favour of defendants. If the an order of temporary injunction is granted, more hardship would be caused to the defendants rather than the appellants/plaintiffs. At this stage, the appellants have not made out any reasonable grounds to interfere with the orders passed by the trial court. Therefore, I.A.No.I filed before the trial court under Order 39 Rule 1 and 2 of CPC is to be confirmed and the said impugned order does not requires to call for any interference by this court. Hence, on the above reasons I, answered point No.1 in the “**Negative**”.

18. **Point No.5:-** As per discussion on point No.1 to 4, I proceed to pass the following:

ORDER

The appeal filed by appellants/plaintiffs under order 43 Rule 1(r) of CPC is hereby dismissed.

No order as to costs.

Office is hereby directed to sent the copy of this Judgment to trial court in accordance with law.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced in the open court on this the 20th day of November 2024.)

(Arun Kumar.G)
Senior Civil Judge & JMFC,
Hosakote.

Order pronounced in the open court
vide separate :

ORDER

The appeal filed by appellants/plaintiffs
under order 43 Rule 1(r) of CPC is hereby
dismissed.

No order as to costs.

Office is hereby directed to sent the copy
of this Judgment to trial court in accordance
with law.

Senior Civil Judge & JMFC,
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