



**IN THE COURT OF THE PRINCIPAL DISTRICT AND  
SESSIONS JUDGE, MYSURU**

**Dated this the 2<sup>nd</sup> day of May, 2025**

**:: PRESENT ::**

**Smt. Usharani, B.A.(Law) LL.B.,**  
Prl. District & Sessions Judge, Mysuru.

**O.S. 13/2023**

**Plaintiff :**

Archana Indo American Hospital Trust,  
A Private Trust, having its premises at  
Chandrakala Hospital and Institute of  
Medical Research, Jayalakshmipuram,  
Mysuru – 570 012,

Represented by J.E.Chandrashekar,  
Chairman and Author of the Trust

Also at:

# 75-277, Skylark Trail,  
Indian Wsells, CA 92210, U.S.A.

Represented by its  
Power of Attorney Holder  
D.O.Suresh Kumar  
S/o Late D.Om Prakash,  
Aged about 55 years,  
No.162, 1<sup>st</sup> Main, 3<sup>rd</sup> Cross,  
Lower Palace Orchards,  
Bengaluru – 560 003.

**[By Sri. M.S.Mukarram, Advocate].**

**-Vs-**

- Defendant:**
1. Dr. J.Shashidhara Prasad,  
S/o Late Javare Gowda,  
Aged about 70 years,
  2. Revathi Shashidhara Prasad,  
W/o Dr. J.Shashidhara Prasad,  
Aged about 66 years,
  3. Shiva Sundara Sathyendra,  
S/o Dr. J.Shashidhara Prasad,  
Aged about 50 years,

All are R/at No.49/2,  
5<sup>th</sup> Main, 3<sup>rd</sup> Block,  
Jayalakshmipuram,  
Mysuru – 570 012.

**[By Sri H D Nanda Kishore, Advocate].**

**I.A.No.7**

**Applicant/** : Sri J Shahshidhara Prasad & others  
**Defendants**

**V/s.**

**Opponent/** : Archana Indo American Hospital Trust  
**plaintiff**

**ORDERS ON IA NO.7**

This application is filed under Order 39 Rule 1 and 2  
R/W Section 151 of C.P.C seeking to pass an order  
restraining the plaintiff from alienating or creating the

charge in and over the plaint schedule property till the disposal of the suit.

2. For the convenience, the parties to this I.A. are referred as per their ranks in the original suit.

3. It is stated in the affidavit annexed to the I.A. that plaintiff is not at all a trustee of Archana Indo American Hospital Trust and suit has been filed just to make wrongful gain. The plaintiff has obtained ex parte temporary injunction but has failed to comply the order 39 Rule 3[a] and [b] of C.P.C. Originally schedule property was allotted to the name of Dr. J E Chandrashekar by the then City Improvement Trust Board [herein after referred as 'CITB'], Mysuru. Possession was also handed over along with possession certificate to Dr. J E Chandrashekar, who left India in the year 1974. After Dr. J E Chandrashekar left to eke-out his livelihood, he had expressed his desire to do something in the vacant site. Father-in-law of Dr. J E Chandrashekar, father of defendant No.1 Prof. D

Javaregowda former Vice-Chancellor of University of Mysuru and World renowned Kannada Writer and Scholar, more famously known as Karnataka Rathna Nadoja De.ja.gow who had applied for conversion of the said site from residential use to commercial use. Firstly in 1989-90 defendant No. 1 started the construction of ground floor and opening ceremony was held during 2001. Defendant No. 1 as a Managing Trustee got sanctioned the modified plan to construct 2<sup>nd</sup> and 3<sup>rd</sup> floors from the Mysore City Corporation for the year 2003 to 2009 along with nursing hostel, equipments and on receipt of modified plan, defendant No.1 out of his own funds and also funds generated by the hospital completed construction, which is well within the knowledge of Dr. J E Chandrashekar. In the year 2007, Chandrakala Hospital was started blood Bank after obtaining necessary permission from Drug Controller of India. Defendant No. 1 was heading the Trust and is a well known personality and was former Vice-Chancellor not

only in University of Mysore but also in Sri Sathya Sai Institute of Higher Learning at Putta Parthy at Andhra Pradesh. Hospital was not looked after by the plaintiff and it is in possession and enjoyment of the defendants. Reliefs sought will not come under the jurisdiction of this Court and Civil Judge [Jr.Dn.] has got the jurisdiction. Dr. K Mahadev is making hectic efforts to dispose off the property. These defendants have made huge expenses for construction, management and upliftment of the plaintiff hospital in and over the plaint schedule property. Hence, balance of convenience is in favour of the defendants. Therefore, prayed to grant them injunction.

4. The plaintiff has filed objections stating that application filed by the defendants is liable to be dismissed. The Managing Trustee and chairman of Archana Indo American Hospital Trust is absolute owner and in possession of the suit schedule property i.e., Chandrakala Hospital and Institute of Medical Research founded by

plaintiff's trust [herein after referred as application schedule property]. Defendant No.3 has sworn to false affidavit contending that he is the Administrator of Chandrakala Hospital and Institute of Medical Research and hence, he is liable to be tried for committing perjury. When defendants have admitted that Dr. J E Chandrashekar is the owner of the suit schedule property, their contentions are not maintainable. Dr. J E Chandrashekar completed MBBS and was a lecturer in Physiology, Mysore Medical College and represented as Chairman, CITB for allotment of bit of land in the 1<sup>st</sup> block of Jayalakshmipuram, Mysuru for construction of nursing home. Land in question allotted to Dr. J E Chandrashekar is full of pits. He had given application to CITB, Mysuru. In the board meeting, CITB considered the application of Dr. J E Chandrashekar and ordered to allot land measuring 125 ft. x 200 ft. All Trustees of CITB has held a meeting, which has issued possession certificate to Dr. J E Chandrashekar. Thereafter

he had proceeded to work in USA. The Mysuru CITB has executed Sale Deed on 10.12.2021. Since Dr. J E Chandrashekar is the absolute owner of the property and was managing the same, the defendants have filed I.A. under Order 7 Rule 11[c] and [d] R/W Section 151 of C.P.C, but subsequently withdrew the same seeking permission to file fresh application and hence, this application is barred by principles of res-judicata. The earlier order has been passed on the question of maintainability and title of plaintiff over the suit schedule property and hence, prays to dismiss the application.

5. Heard both sides and learned Advocate for the defendants also filed written argument and perused the materials on record.

6. Now the points that arise for my consideration are:

1. Whether the defendants prove that there is prima facie case and balance of convenience in their favour?
2. What order ?

7. My answer to the above points are as follows :

Point No.1 : In the **affirmative.**

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

### **REASONS**

8. **POINT NO.1:** The admitted facts are that defendant No.1 and Shashikala the wife of author of Archana Indo American Hospital Trust are the children of Karnataka Rathna Nadoja Dr. D Javaregowda. Defendant No. 2 is the wife of defendant No. 1 and defendant No. 3 is their son. Application schedule property was allotted in the name Dr. J E Chandrashekar by the then CITB, Mysuru under allotment letter No.TBR.329/1970-71. This suit has been filed against the defendants seeking to restrain them from interfering with the peaceful possession and enjoyment of the suit schedule property. Further the temporary injunction order has also been sought against the defendants by filing I.A.2 and the same was allowed by the Court. I.A.3 filed by the

defendant No.3 seeking exparte temporary injunction against the plaintiff was dismissed.

9. It is argued by learned Advocate for the plaintiff that this I.A. has been filed seeking to restrain the plaintiff from selling the property, but it is alleged that friend of the plaintiff Dr. Mahadev is trying to sell the property who is a Medical Director. When friend of the plaintiff is not the owner of the property, it is not possible for him to sell the property. It is also argued that defendants 1 to 3 have transferred the fund of the Trust, without the knowledge of plaintiff and hence, there is breach of conditions of the Trust and hence, defendants have played fraud and there is not even a single document to show that defendants have constructed the hospital.

10. The defendants have filed written argument and also argued at length. The main grounds raised in favour of the defendants are that at the time of allotment of application schedule property, Dr. J E Chandrashekar was a lecturer in

physiology in the Mysuru Medical College and in the year 1974 he left for a job to Ireland. In the year 1978, Prof. D Javaregowda, the father of defendant No.1 had applied for conversion of said site from residential use to commercial use. During 1989-90, 1<sup>st</sup> defendant has constructed ground floor and it was completed in the year 2000. Thereafter 2<sup>nd</sup> and 3<sup>rd</sup> floors have also been constructed by the 3<sup>rd</sup> defendant in the year 2003 to 2009 from own funds of defendant No.1 and it is well within the knowledge of Dr. J E Chandrashekar, the plaintiff author of the Trust. The hospital was running well and plaintiff never looked after the management and never in possession of the hospital. The defendant No.1 put up building for the hospital which includes elevator, pharmacy, blood Bank, cafeteria and all medical equipment, generators, solar panels, air conditioning equipment, all electrical fittings and fixtures in all the wards, rooms, x-ray rooms, ultrasound equipment and all equipment situated in the hospital. On 7.12.1993

started the Archana Indo American Hospital Trust. Amount of Rs.55 lakhs sent by the plaintiff, had used only for the construction of ground floor of the hospital. The Trust had only 7 members i.e., [1] Dr. J E Chandrashekar, [2] Smt. Shashikala Chandrashekar W/o Dr. J E Chandrashekar, [3] Narendra S Chandrashekar, S/o Dr. J E Chandrashekar, [4] Revathi Shashidhara Prasad, W/o J Shashidhara Prasad, [5] Dr. D Javare Gowda, [6] Dr. T Prabhu, [7] J Shashidhara Prasad. Further in the Trust Deed it is stated that all the Trustees shall hold, possess and manage the Trust property. The plaintiff Dr. J E Chandrashekar, his wife Shashikala Chandrashekar and his son Narendra are citizens of United States. It is the defendant No. 3 who is managing the affairs of the Trust. Trust has been filing income tax returns as per Income Tax Act and getting it audited time to time. The very contention of the plaintiff that the defendants are not paying taxes show that defendants are in peaceful possession of the application

schedule property. The Trust and hospital were running peacefully with the local Trustees, managing the Trust by representing the Trust at all level of Government and regulatory authorities and even at Courts when needed for them to be present. In the year 2014 Dr. J E Chandrashekar has started questioning the audit of the Trust and same was complied with all details. On 27.3.2014, plaintiff sent a mail stating a management agreement is required so that plaintiff Dr. J E Chandrashekar could get returns from the hospital. In spite of having knowledge that hospital and Trust are one and the same entity and that it comes under the Indian Trust Act, plaintiff wanted to get monthly rent from the application schedule property. When the same was not possible as the property was already with the Trust, under duress defendants agreed to let the plaintiff to withdraw the amount and from 2014 till 2021, plaintiff drawn the amount from the Trust as follows:

| <b>Year</b>  | <b>Amount</b>         |
|--------------|-----------------------|
| 2014-2015    | 10,00,000=00          |
| 2015-2016    | 24,00,000=00          |
| 2016-2017    | 21,00,000=00          |
| 2017-2018    | 27,57,000=00          |
| 2018-2019    | 22,09,000=00          |
| 2019-2020    | 20,69,000=00          |
| 2020-2021    | 17,50,000=00          |
| <b>Total</b> | <b>1,42,85,000=00</b> |

Further e-mail dated 13.10.2015 the plaintiff asked the defendant to close the Trust and shift/return the property to him, which is against the very nature of the Trust Deed. He has also asked the defendant No.1 to use the money from the Trust to pay the property taxes relating to properties of himself and his children. It is further argued that plaintiff has obtained temporary injunction by misleading the Court by saying property is in an individual name and it is not of the Trust. Further plaintiff is also trying to remove the Trustees to achieve his ulterior motive using services of D O Suresh Kumar, his GPA Holder. It is

further argued that plaintiff had unilaterally canceled registered GPA given to J Shashidhara Prasad, defendant No.1 by registering the GPA cancellation deed. This is a gross violation. Further it is also stated that this suit is not maintainable as relief sought for by the plaintiff attracts the relief under law of injunction and not under Section 34 of Indian Trust Act. Plaintiff is making hectic efforts to dispose off the property. Hence, defendant is entitled for the relief of injunction.

11. At this stage it is pertinent to note here that order on I.A. 2 has been passed making some observations and said order has not been challenged. At this juncture, it is pertinent to note here that I.A. 2 filed by the plaintiff under Order 39 Rule 1 and 2 of C.P.C seeking to restrain the defendants from interfering with the peaceful possession and affairs of the application schedule property i.e., Chandrakala Hospital run by Archana Indo American Hospital Trust/ plaintiff Trust, which was allowed. The I.A. 3

filed by the defendant No.3 stating he is the Administrator of Chandrakala Hospital and Institute of Medical Research seeking to set aside the exparte order granted against them. While passing the order on I.A.2 and 3, the Court has opined that application schedule property was allotted to Dr. J E Chandrashekar by the then CITB, Mysuru. The said land was granted to Dr. J E Chandrashekar, author of plaintiff Trust [herein after called as plaintiff Trust] with a condition to use the said land for construction of nursing home only. Hence, question of getting the land converted for the commercial purpose by father of defendant No.1 does not arise and defendants have not produced documents to show that they have constructed 2<sup>nd</sup> and 3<sup>rd</sup> floor of the building. Defendant No.3 is not the Trustee of plaintiff Trust under the Trust Deed dated 7.12.2023 and has not authorised by the Trust. The plaintiff has got all rights to cancel and revoke the GPA executed in favour of defendant No.1. As per the clause 14 of the Trust Deed

dated 7.12.2023, 50% of the Trustees or 3 members whichever is less shall form the quorum for the meeting of the Trust. So acting under said clause 14 of the Trust, author of the Trust with a quorum of 3 members of the Trust including himself has canceled and revoked Archana Indo American Hospital Trust dated 7.12.2023 and when Trust was not being run in accordance with the objectives of the Trust, same was canceled and revoked and new Trust in the same name was reconstituted on 2.5.2022. The defendants have established a partnership firm vide Partnership Deed dated 1.4.2021 along with another partner Smt. Trupti, who is the wife of defendant No.3 for the purpose of running Chandrakala Hospital and Institute of Medical Research and hence, author of the Trust had canceled and revoked Archana Indo American Hospital Trust dated 7.12.1993. Further elaborately discussed regarding under which circumstances provisions of Sections 14 and 51 of the Trust Act attract and held that defendants 1 and 2

have violated the very provision of Indian Trust Act. Further Court has considered that since from the beginning, electricity charges, water consumption charges, tax paid to Mysuru City Corporation from the Trust till March 2021, show the name of Dr. J E Chandrashekar author of the Trust and hence, clear that he is the owner of the property.

12. It is relevant to note here that order on I.A.1 has neither challenged nor it was set aside by the Appellate Court and hence, this Court cannot form an opinion contrary to the same on this interim application except while discussing merits of the case.

13. However it is observed in the order on I.A. 2 and 3 that according to defendant No.3, when time mentioned on the GPA and reconstitution of Trust dated 2.5.2022 are looked into, it is clear that reconstitution of Trust dated 2.5.2022 was never happened but Court opined that it is a matter which can be urged at the time of trial. When the above question is still under consideration or has to be

decided by this Court, it is prima facie clear that defendants 1 and 2 are Trustees of Archana Indo American Hospital Trust. **When prima facie it shows that defendants 1 and 2 are the Trustees of plaintiff Trust, if author of the plaintiff Trust is allowed to sell the application schedule property, the very object of creation of the trust fails.**

14. It is pertinent to note here that one of the arguments advanced by the learned Advocate for the plaintiff is that as per I.A.7, it is the contention of defendants that one Mr. Mahadev friend of plaintiff is trying to dispose application schedule property. When he is not the lawful owner of the property, he cannot sell the property and hence, this I.A. is not maintainable.

15. Hence, perused available materials, from para 14 of the affidavit annexed to I.A. 7, it is clear that Dr. K Mahadev has given advertisement in Star of Mysore for recruiting the nursing staff dated 28.12.2023 claims to be

the medical director, who according to defendants, is a close friend of plaintiff and is making hectic efforts to dispose the property. Further it is stated that if the plaintiff was to be successful in his attempt, right of the defendants will be deprived. Hence, it is clear that according to defendants, it is the plaintiff who is making efforts to sell the property. Coupled with this, defendants have produced mail sent by plaintiff wherein it is stated that with the help of defendants, he is wishing to sell the hospital to a national hospital chain for a fair price and defendant is expecting some financial compensation from the said sale and that plaintiff is agreeable for that arrangement. Further it is stated that in this regard amount has been given with Mr. Vedachala. From this mail, it is clear that plaintiff is intending to sell the application schedule property.

16. In view of the above observations, I opine that if plaintiff author of the Trust, is allowed to dispose the application schedule property, the very purpose and values

under which the Trust Deed of 7.12.1993 has been executed will fail. Hence, I opine that balance of convenience is in favour of the defendants. Therefore, it is just and proper to restrain the plaintiff author of the Trust from disposing the application schedule property. Therefore, the Point No.1 is answered in the **affirmative**.

17. **POINT NO.2:-** For the discussion made on above points, I proceed to pass the following:

**ORDER**

I.A.No.7 filed under Order 39 Rule 1 and 2 R/W Section 151 of C.P.C by the defendants is hereby **allowed**.

The plaintiff, author of the Archana Indo American Hospital Trust, is restrained from selling the application schedule property till disposal of the suit.

(Typed to my online dictation by the Stenographer Gr-I on Computer and after corrections, signed and then pronounced by me in open Court on this the **2<sup>nd</sup> day of May, 2025**).

**(USHARANI),**  
Principal District & Sessions Judge,  
Mysuru.