

KARN410002402024



**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C., AT
MAGADI.**

Present:

**Sri. Sandeep S. Reddy, B.A.L, LL.B.,
Sr. Civil Judge & JMFC., Magadi.**

Dated This the 2nd Day of June, 2026

M.A. No. 7/2024

Appellant :

M/s Rajeshwari Aashirvad
Infra Projects Pvt. Ltd.,
No.88, Susheel Complex,
2nd Main, Kengeri Satellite
Town, Bengaluru-60.
Represented by its
Managing Director,
Mr. Ravikumar.T.

(By **Sri. G.R., Advocate**)

Vs.

Respondent:

Chunchanakuppe
Panchayath,
Represented by
Panchayath Development
Officer, Chunchanakuppe
Village, Tavarekere Hobli,
Bengaluru South Taluk.

(Ex-parte)

Date of institution of appeal	28.02.2024
Nature of the appeal	The appellant pray to set aside the



	order passed on IA No.1 filed U/o XXXIX rule 1 and 2 r/w Sec.151 of CPC by the Hon'ble Court of II Addl. Civil Judge & JMFC, Magadi, in O.S. No. 390/2023 dated: 29.01.2024.		
Date of Judgment	02.06.2026		
Total Duration	Years	Months	Days
	02	03	04

**Sr. Civil Judge & JMFC.,
Magadi.**

ORDER

The aforesaid Misc. Appeal is filed by the plaintiff / appellant assailing the order dated: 29.01.2024 passed on IA No.1 filed U/o. XXXIX rule 1 & 2 of CPC, by the Hon'ble Court of II Addl. Civil Judge & JMFC, Magadi in O.S. No. 390/2023, whereby the Hon'ble Trial Court had rejected the IA.

2. For the sake of convenience, the parties are hereinafter referred to, in terms of their status before the Hon'ble trial court.

3. **Brief facts leading to the present appeal are as follows:**

The appellant is the plaintiff in the aforesaid original suit OS No.



390/2023. The appellant has filed the original suit against the defendants seeking for the relief of permanent injunction. He has filed the IA No.1 under Order 39 Rule 1 & 2 of CPC praying for restraining the defendants from interfering with the possession of plaintiff over the suit schedule property pending disposal of the suit.

4. In the accompanying affidavit to the said application the plaintiff has stated that it is a private limited company represented by Managing Director. That the immovable property bearing Sy.No. 36/7 measuring 2 acres situate at Kethohalli Village, Tavarekere Hobli belongs to the plaintiff and plaintiff is the absolute owner of the same. The said property is fully described in the schedule to the plaint and hereinafter shall be referred to as suit schedule property. That the suit schedule property is a converted land which was converted on 01.06.2015 as per the order passed by the Deputy Commissioner, Bangalore. That the plaintiff had purchased the suit schedule property from one R.P. Srinivas on 18.11.2015 and subsequent to the said purchase of the suit schedule property the plaintiff was transferred the katha and other revenue records in his name. The



plaintiff is in lawful possession and enjoyment of suit schedule property and during the second week of September 2023 defendants tried to interfered with possession of plaintiff on the guise of forming the road in the suit schedule property. That defendant without acquiring the land had tried to form the road in the suit schedule property.

5. After issuance of summons the defendants had appeared before the court and filed vakalath. They had not filed written statement and objections to the aforesaid application.

6. After considering the contentions taken by the parties and on perusing the materials available on record, the Hon'ble trial court passed the order dated: 29.01.2024, whereby and where under IA No.1 filed by the plaintiff was rejected. It is that order which is impugned by the appellant/plaintiff on the following grounds;

- i. The trial court had failed to appreciate the facts of the case made out of plaintiff and had failed to consider the material on record, pleadings on record.
- ii. That the court below totally misconstrued the facts



of the case and erred in passing the impugned order dismissing the IA No.1 filed by plaintiff without looking into the documents and real facts of the case.

- iii. That the trial court had passed the order mechanically without applying its mind to the facts and circumstances of the case. That the impugned order was passed by the trial court by committing error on facts on law, conducting mini trial and jumping into a conclusion without there being prima facie material to arrive at the conclusion.
- iv. That the trial court had wrongly come to the conclusion by making the observations that the suit schedule property stands in the name of vendor of plaintiff without taking notice of the e-katha produced by plaintiff pertaining to the suit schedule property. That the trial court had also not taken into the consideration the sale deed produced by plaintiff before coming to the aforesaid conclusion.
- v. That the learned trial judge has passed the impugned order only on the basis of presumptions and assumptions without touching the merits of the case and not applying the judicious mind.



vi. That the e-katha was obtained by the plaintiff in the year 2015 itself and the plaintiff has been in possession of the schedule property since the said date.

7. Amongst other formal grounds, the appellant prayed for reversal of the order passed by the Hon'ble trial court.

8. The respondent has filed the objections contending that the learned trial court has rightly passed the orders by allowing the IA No.1 filed by appellant and hence, any alienation in the aforesaid suit would cause great prejudice to the parties.

9. Heard arguments of the learned counsel appellant and respondent on the appeal.

10. In the light of the submissions made by the learned counsel for the appellants and respondents, following points arise for my consideration:

POINTS

1. Whether the order passed by the Hon'ble trial court in rejecting IA No.1 is unreasonable and capricious?



2. Whether the order passed by the Hon'ble trial court on IA No.1 calls for interference by this court?
3. What order or decree?

11. My findings for the above points are as under:

Point No.1 : In the negative.

Point No.2 : In the negative

Point No.3 : As per final order

for the following;

REASONS

12. **Point No.1 & 2**:- The appellants have filed the aforesaid appeal praying for setting aside the order passed by Hon'ble II Addl. Civil Judge & JMFC, Magadi in OS No. 390/2023 dated: 29.01.2024 rejecting the application filed U/o 39 Rule 1 & 2 CPC by the appellant.

13. The appellant is a private limited company. It is represented by its Managing Director. The respondent is the Panchayath Development Officer of Chunchanakuppe Grama-panchayath.



14. It is the contention of the appellant that they are the absolute owners of the suit schedule property having acquired the same through the sale deed dt: 18.11.2015, after getting the land converted from agricultural to non agricultural purpose. The said conversion order dt: 01.06.2015 has also been produced along with the sale deed by the appellant for perusal of this court. The appellant has also produced the copy of e-katha standing in the name of the plaintiff company and the facts having been remitted.

15. It is the contention of the appellant that the respondent was trying to form the road in the suit schedule property without acquiring the land belonging to plaintiff for formation of the road. The learned advocate for appellant contends that the road i.e. proposed to be formed was being formed in a arbitrary and capricious manner totally neglecting the interest of the plaintiff company. That the said road was illegally being formed in the center of the immovable property.

16. The appellant has contended that at the time of purchase of the suit schedule property there was no road which was in



existence either in the village map. That the sale deed and the schedule does not contain or speak anything about the existence of the road.

17. The plaintiff has produced the copy of the conversion order bearing No. ALN/(ST)/SR/146/2014-15 Dt: 01.06.2015. On perusal of the said document it is noticed that there is not even a single mention about any existing road in the said property.

18. However, at para 7 of the said conversion order there is mention about the B kharab land measuring to an extent of 0.03 guntas. However, there is no details regarding any existence of the road whatsoever in the said conversion order. On further perusal of the e-katha, encumbrance certificate and other documents produced before this court, I am of the view that existence of the road is not forthcoming from the said document.

19. Having said this, it is seen that the road is being formed by the panchayath. The defendant is none other than the Panchayath Development Officer. The aforesaid formation of the road is a statutory duty. It is a infrastructure project as defined U/s 20A and



41hA of Specific Relief Act.

20. Sec. 20A of Specific Relief Act provides that no injunction shall be granted by a court in a suit involving the contract relating specific infrastructure project. Sec. 41hA of Specific Relief Act provides that if any injunction is sought for which good impede or delay the progress or completion of any infrastructure project or interfere with continued provision of relevant facility related thereto or services being subject matter of such project, no injunction can be granted. This being the case formation of the road is a infrastructure project. The aforesaid matter was filed before the trial court in the year 2023. Further the 0.03 guntas of B kharab is not specified whether it is a road or not. B kharab property is a government property. If there is a already a existing road in the B kharab property then any injunctive relief sought would come within purview of Sec. 41hA of the Specific Relief Act. Hence, ***I answer Point No. 1 & 2 in the Negative.***

21. **Point No. 3:** For the reasons stated on Point No.1 and 2, and in the interest of justice and equity, I proceed to pass the



following;

ORDER

The Misc. appeal filed by the appellants questioning the correctness of the order passed by the Hon'ble Court of II Addl. Civil Judge and JMFC, Magadi on IA No. **1** filed U/o. XXXIX Rule 1 and 2 r/w. Sec.151 of C.P.C., in O.S. No. 390/2023 dated: 29.01.2024, is hereby dismissed.

The order of the Hon'ble trial court passed on IA No. **1** in O.S. No. 390/2023 is hereby confirmed.

Having regard to peculiar facts and circumstances of this case, the parties are directed to bear their respective costs.

Send the copy of this order to Hon'ble trial court forthwith.

*(Dictated to the Stenographer directly on the computer, typed by him, corrected by me and then pronounced in the open court on this the **2nd day of June, 2026.**)*

(Sandeep S. Reddy)
Senior. Civil Judge & JMFC.,
Magadi.

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Separate order signed and pronounced in open court.

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