



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

MISCELLANEOUS FIRST APPEAL NO. 156 OF 2022 (IPR)

BETWEEN:

M/S PRESTIGE ESTATES PROJECTS LTD
A PUBLIC LIMITED COMPANY INCORPORATED
UNDER COMPANIES ACT 1956
HAVING ITS REGISTERED OFFICE AT
NO.19 PRESTIGE FALCON TOWER
BRUNTON ROAD, BANGALORE 560 025
REP BY ITS SENIOR MANAGER SECRETARIAL
MR LINGARJU PATRA
S/O SIBA PRASAD PATRA
AGED ABOUT 30 YEARS.

...APPELLANT

(BY SRI. HARIKRISHNA S HOLLA AND HARSHITH RATHOD AND
ANNU BHARADWAJ, ADVOCATES)

AND:

M/S PRESTIGE GARDEN ESTATE CLUB
AND RESORT
NEXT TO SMILEE GREEN
19TH KM OFF HOSUR ROAD,
GOOLIMANGALA VILLAGE,
HUSKUR ROAD,
ELECTRONIC CITY,
BENGALURU 560 099
REP BY ITS PROPRIETOR.

...RESPONDENT

(BY SRI. K K VASANTH., ADVOCATE)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF CPC,
AGAINST THE ORDER DATED 30.11.2021 PASSED ON I.A. NO.
I.A.NO.2 IN O.S.NO.3361/2021 ON THE FILE OF THE XVIII
ADDITIONAL CITY CIVIL JUDGE, BENGALURU CITY, (CCH.NO.10),
DISMISSING I.A.NO.2 FILED UNDER ORDER 39 RULE 1 AND 2 OF
CPC.

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MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA



THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

The present appeal is filed by the plaintiff/appellant assailing the order dated 30.11.2021 passed in OS.No.3361/2021 on the file of XVIII Additional City Civil and Sessions Judge at Bengaluru (CCH.No.10) (for short 'Trial Court') on I.A.No.2 filed by the plaintiff/appellant under Order XXXIX Rule 1 and 2 of CPC. By the impugned order, the Trial Court rejected the said application.

2. The suit in O.S.No.3361/2021 is filed seeking for the following reliefs:

"i) Granting permanent injunction restraining defendants, their servants, assigns or agents or any one claiming through them from in any manner infringing the plaintiff's well established registered trademark/trading style in respect of PRESTIGE or any other trademark and/or trading style which is deceptively similar to plaintiff's trademark and/or trading style by using offending trade name/trading style PRESTIGE GARDEN ESTATE CLUB & RESORT or any other deceptively similar trademark/trading style for building constructions;



ii) Directing the defendant to surrender to plaintiff, the entire stock of unused offending brochures, bills, Hoardings, literature, negatives, positives, transparencies, blocks containing PRESTIGE GARDEN ESTATE CLUB & RESORT;

iii) Directing defendant to pay damages of Rs.50,000/-per day commencing from the date of filing suit till the defendant stops infringing trademark/trading style PRESTIGE, by using offending trade name/trading style PRESTIGE GARDEN ESTATE CLUB & RESORT;

iv) Directing the defendant to render honestly and faithfully true account of the profit that defendant has derived by promoting their company by using offending trade name/trading style PRESTIGE GARDEN ESTATE CLUB & RESORT;

v) 47 Directing the defendants to pay to plaintiff the costs of this suit and pass such other order/s as this Hon'ble Court deems fit and proper in the circumstances of the case; and

vi) The plaintiff undertakes to pay difference in court fee if any at the time of passing of decree and judgment."

3. The appellant/plaintiff has filed I.A.No.2 under Order XXXIX Rules 1 and 2 of CPC seeking temporary injunction, restraining the defendant, their servants, assigns or agents or any one claiming through them from infringing the plaintiff's well established registered trademark/trading style "PRESTIGE" or using any



deceptively similar such as "PRESTIGE GARDEN ESTATE CLUB AND RESORT". The Trial Court, upon considering the application on merits, rejected it on the ground that the plaintiff is required to establish through evidence at trial that adoption of the impugned mark by defendants has caused confusion among the customers. The Trial Court also held that, since the plaintiff's business involves providing club services to its members, a mere assertion of confusion without supporting material does not make out a *prima facie* case. Consequently, the Trial Court declined to grant temporary injunction.

4. On perusal of the impugned order, this Court is of the considered view that the Trial Court after due consideration of the material on record, has passed a well reasoned order warranting no interference. It is also relevant to note that from 2021 till date, the appellant has not enjoyed the benefit of any interim order. Therefore, there is no justification to keep this appeal pending before this Court. Moreover the interim relief sought by the



appellant is identical to the main reliefs sought in the suit. The Trial Court has rightly held that the matter requires to be adjudicated on evidence and that injunction cannot be granted at the consideration of interim relief.

5. For the forgoing reasons, the impugned order challenged in this appeal does not call for any interference. Accordingly, this Court pass the following:

ORDER

- i) The Miscellaneous First Appeal is hereby ***dismissed.***
- ii) The order dated 30.11.2021 passed in OS.No.3361/2021 on the file of XVIII Additional City Civil and Sessions Judge at Bengaluru (CCH.No.10) on I.A.No.2 filed by the plaintiff/appellant under Order XXXIX Rules 1 and 2 of CPC is hereby ***confirmed.***



- iii) Since the suit is of the year 2021 seeking injunctive relief concerning infringement of intellectual property rights, the Trial Court to dispose of the suit expeditiously as possible, in accordance with law.

Sd/-

JUSTICE K.S. HEMALEKHA

PHM

List No.: 1 SI No.: 29