



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

MISCELLANEOUS FIRST APPEAL NO.234 OF 2026 (CPC)

BETWEEN:

1. MR. MOHAMMED IMRAN
S/O MR. MOHAMMED FARHATULLA
@ MR. MOHAMMED FARHATHULLA,
AGED ABOUT 37 YEARS,
RESIDING AT OLD NO.53,
NEW NO.16/4, 4TH CROSS,
GOWTHAMPURAM, ULSOOR,
BANGALORE-560 008.
2. MR. MOHAMMED SALMAN,
S/O MR. MOHAMMED FARHATULLA
@ MR. MOHAMMED FARHATHULLA,
AGED ABOUT 33 YEARS,
RESIDING AT OLD NO.53,
NEW NO.16/4, 4TH CROSS,
GOWTHAMPURAM, ULSOOR,
BANGALORE-560 008.

...APPELLANTS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. SRI. IMTIYAZ AHMED
S/O LATE ABDUL KHAYUM,
AGED ABOUT 58 YEARS,
RESIDING AT NO.43/1,
RHA BAZAAR STREET CROSS ROAD,
GOWTHAMAPURAM, ULSOOR,
BANGALORE-560 008.





2. SRI. ZAFRULLA ALIAS BABU,
S/O LATE ABDUL KHAYUM,
AGED ABOUT 62 YEARS,
RESIDING AT NO.45, PH 01,
ZAITOON APARTMENT,
THIMMAIAH ROAD,
H.K.P. ROAD, SHIVAJINAGAR,
BANGALORE-560 001.
3. SRI. MUJEEB AHMED,
S/O LATE ABDUL KHAYUM,
AGED ABOUT 49 YEARS,
RESIDING AT NO.43/1,
RHA BAZAAR STREET CROSS ROAD,
GOWTHAMAPURAM. ULSOOR.
BANGALORE-560 008.
4. SRI. ABDUL SALEEM,
ADOPTED SON OF LATE ABDUL BASHEER,
AGED ABOUT 56 YEARS,
RESIDING AT NO.43/1,
RHA BAZAAR STREET CROSS ROAD,
GOWTHAMAPURAM, ULSOOR,
BANGALORE-560 008.
5. SMT. VASIYA BEGUM,
W/O SRI. MOHAMMED SANAULLA,
AGED ABOUT 71 YEARS,
RESIDING AT NO.45, PH 01
ZAITOON APARTMENT,
THIMMAIAH ROAD, H.K.P. ROAD,
SHIVAJINAGAR,
BANGALORE-560 001.
6. SMT. ZUBERIYA BEGUM,
W/O LATE MOHAMMED KHALEELULLA.
AGED ABOUT 61 YEARS,
RESIDING AT NO.45, PH 01
ZAITOON APARTMENT,
THIMMAIAH ROAD, H.K.P. ROAD,



SHIVAJINAGAR,
BANGALORE-560 001.

7. SMT. SHABANA BEGUM,
W/O SRI. NAZEER AHMED @ FAQROO,
AGED ABOUT 48 YEARS,
RESIDING AT NO.45, PH 01
ZAITOON APARTMENT,
THIMMAIAH ROAD, H.K.P. ROAD,
SHIVAJINAGAR,
BANGALORE-560 001.

...RESPONDENTS

(BY SRI. M.SRINIVAS, ADVOCATE FOR R1 TO R7)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
ORDER 43 RULE 1(r) READ WITH SECTION 104 OF THE CODE
OF CIVIL PROCEDURE, 1908.

THIS MISCELLANEOUS FIRST APPEAL IS LISTED FOR
ADMISSION, THIS DAY, THE JUDGMENT IS DELIVERED AS
UNDER:

ORAL JUDGMENT

Sri.Mohammed Tahir, counsel for the appellants and
Sri.M.Srinivas, counsel for respondents 1 to 7, have appeared
in person.

2. The captioned appeal is filed to set aside the order
dated 15.12.2025 passed by the Court of XXXI Additional City
Civil and Sessions Judge, Bengaluru (CCH-14) on I.A.No.2 in
O.S.No.7203/2024.



As this appeal is filed under Order 43, the scope of inquiry is limited only to the impugned order arising from the interlocutory application, and does not extend to the merits of the main suit.

3. For convenience's the parties shall be referred to as per their status and ranking before the Trial Court.

4. The plaintiffs filed a suit seeking certain relief. They also filed an application under Order XXXIX, Rules 1 and 2 of CPC for an order of temporary injunction restraining the defendants, his agents, privies, servants and henchmen from interfering with plaintiffs' peaceful possession and enjoyment of the suit schedule property till the disposal of the suit. The defendants filed an objection to the application. The Trial Court vide order dated:15.12.2025 dismissed the application. Under these circumstances, this appeal is filed on several grounds as set out in the memorandum of appeal.

5. Counsel for the respective parties urged several contentions.



Counsel Sri.Mohammed Tahir, in presenting his arguments, submits that a memo has been filed stating that Mr Abdulla Qurishi, son of Mr Zafrulla alias Babu, the second defendant, has filed a suit in O.S.No.2925/2025. He has sought the relief of a declaration that he is the absolute owner of the suit schedule property, and he has also sought that he should be put in possession of the suit schedule property. Counsel argued by saying that due to inadvertence, the same was not brought to the notice of the Trial Court while considering the application for temporary injunction by producing the true copy of the plaint copy. Counsel further submits that the plaintiffs may be permitted to produce a copy of the plaint to consider the prima facie case and balance of convenience as far as the possession is concerned. Counsel, therefore, submits that the memo may be placed on record and the matter may be remanded to the Trial Court.

Counsel Sri.M.Srinivas justified the order of the Trial Court. Having urged various contentions on the merits, the counsel for the defendants contend that the appeal is



groundless and ought to be dismissed and submits that the appeal may be dismissed.

6. Heard the arguments and perused the papers with utmost care. The memo is placed on record.

Bearing in mind that the scope of inquiry is restricted solely to the impugned interlocutory order, the issue for consideration is limited to whether the Trial Court was justified in dismissing the application.

The plaintiffs filed a suit for a permanent injunction. The defendants filed a written statement. Perused the impugned order with care. The Trial Court exceeded its jurisdiction by pre-judging the merits of the suit at an interlocutory stage. The impugned order constitutes a 'mini-trial,' which is prohibited while deciding an application for a temporary injunction. Furthermore, the Trial Court committed a jurisdictional error by recording final findings on title/merits (discussing the issue about Hiba), which should be reserved for the final disposal of the suit. Taking note of the plaintiff's submission that the failure to disclose the pendency of the prior suit was due to



inadvertence, this Court, being of the view that no prejudice is caused to the defendants, grants leave to the plaintiffs to produce a copy of the plaint and allows them to contend on the prima facie case and balance of convenience.

7. For the foregoing reasons, the impugned order of the Trial Court is unsustainable in law, and therefore, it is set aside with a direction to remand the matter for fresh consideration.

8. Although counsel for defendants has argued the merits at length, this Court will confine itself to testing the legality and propriety of the impugned interlocutory order, as noted earlier.

9. Accordingly, the order dated 15.12.2025 passed by the Court of XXXI Additional City Civil and Sessions Judge, Bengaluru (CCH-14) on I.A.No.2 in O.S.No.7203/2024 is set aside and the plaintiffs are permitted to produce the true copy of the plaint in O.S.No.2925/2025 to urge the contentions regarding the prima facie case and balance of convenience. The defendants are permitted to urge their contentions. The Trial



Court is directed to reconsider the injunction application afresh.

All the contentions are left open.

10. Resultantly, the appeal is ***allowed and remanded***.

Because of the disposal of the appeal, the interim order granted, if any, stands discharged and pending interlocutory applications, if any are disposed of.

**SD/-
(JYOTI M)
JUDGE**

MRP
List No.: 1 Sl No.: 29