



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 713 OF 2024 (CPC)

BETWEEN:

1. KUMARI KUSUMA
D/O LATE S G SHAMANNA
AGED ABOUT 23 YEARS
2. SRI PRAJWAL
S/O LATE S G SHAMANNA
AGED ABOUT 20 YEARS

BOTH ARE RESIDING AT NO.319
2ND MAIN ROAD,
DUBASIPALYA
1ST BLOCK, JNANABHARATHI,
SATELLITE TOWN,
KENGARI,
BENGALURU - 560 059.

Digitally signed by
MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SRI. HEGDE SHRIPAD GANGADHAR.,ADVOCATE)

AND:

1. SMT NAGALAKSHMI C
W/O LATE S G SHAMANNA
AGED ABOUT 59 YEARS
2. SMT SOWMYA S
D/O LATE S G SHAMANNA
AGED ABOUT 39 YEARS



3. SHRI BHARATH S
S/O LATE S G SHAMANNA
AGED ABOUT 39 YEARS

RESPONDENT NO.1 TO 3 ARE
RESIDING AT SHIVAKOTE VILLAGE,
HESARAGHATTA HOBLI
BENGALURU - 560 089.

4. SRI SRINIVASA RAO GUNDAPANENI
S/O KOTATIAH GUNDAPANENI
AGED ABOUT 47 YEARS
R/A NO.50,
SHIVAKOTE VILLAGE,
HESARAGHATTA HOBLI
YELAHANKA TALUK,
BENGALURU - 560 089.

5. SRI ANAND G
S/O GOVINDAPPA
AGED ABOUT 48 YEARS
R/AT NO.207,
GUNIAGRAHARA ROAD
LAKSHMIPURA,
BENGALURU NORTH
BENGALURU - 560 097.

6. M/S ONYX HOMES PRIVATE LIMITED
(FORMERLY M/S ONYX APARTMENTS
PRIVATE LIMITED)
HAVING REGISTERED OFFICE AT NO.216/13,
LOUNGE A SURAJ TOWERS,
4TH FLOOR, 27TH CROSS,
JAYANAGAR 3RD BLOCK,
BENGALURU - 560 011.
REPRESENTED BY ITS MANAGING DIRECTOR

...RESPONDENTS

THIS MFA IS FILED U/O 43 RULE 1(r) R/W SECTION 151
OF CPC, AGAINST THE ORDER DATED 21.04.2023 PASSED ON
I.A.NO.2 IN OS.NO.125/2021 ON THE FILE OF THE XXIX



ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU
CCH-30 REJECTING THE I.A.NO.2 FILED UNDER ORDER 39
RULE 1 AND 2 OF CPC.

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

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

ORAL JUDGMENT

There is a delay of 194 days in filing the appeal. The appeal pertains to the year 2024 arising out of O.S.125/2021. The impugned order rejecting I.A.No.2 is dated 21.04.2023.

2. The present Miscellaneous First Appeal is directed against the order dated 21.04.2023 passed on I.A.No.2 filed by the appellants/plaintiffs under Order XXXIX Rules 1 and 2 of the CPC seeking an *ex-parte* interim injunction restraining the defendants from alienating or creating any third party rights in respect of the suit schedule property in O.S.No.125/2021 on the file of the XXIX Additional City Civil and Sessions Judge, Bengaluru City (for short 'the



trial Court', whereby the said application seeking *ex-parte* temporary injunction came to be rejected.

3. Learned counsel for the appellants submits that the trial Court while considering the I.A.No.2 has virtually adjudicated the suit on its merits, which is impermissible at the stage of considering an application for temporary injunction.

4. Upon perusal of the impugned order, it is evident that the trial Court has held that the plaintiffs have failed to establish a *prima-facie* case, balance of convenience does not *lie* in their favour or no hardship or irreparable injury is caused if injunction is refused. It is also to be noted that from the year 2021 till date, no interim order has been in operation, and the *ex-parte* interim injunction initially granted was subsequently rejected.

5. Having considered the material on record and the impugned order, this Court finds that the trial Court has exercised its discretion based on settled principles



governing grant of temporary injunction. No perversity or illegality or arbitrariness is demonstrated warranting interference by this Court. Accordingly, this Court pass the following:

ORDER

- i) The Miscellaneous First Appeal is hereby ***dismissed.***
- ii) It is made clear that any observations made by the trial Court while considering I.A.No.2 shall not influence the trial Court while deciding the suit on merits and such observations/findings are confined only to the adjudication of the interim application.
- iii) Liberty is reserved to the appellants to approach the trial Court by filing an appropriate application, in the event of any apprehension regarding alienation of the suit property.

Sd/-

JUSTICE K.S. HEMALEKHA

PHM

List No.: 1 Sl No.: 11