



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.1036 OF 2026 (CPC)

BETWEEN:

1. SMT. SHILPA .M
W/O SRI GIRISH
AGED ABOUT 36 YEARS,
2. SRI GIRISH .S
S/O LATE S.A. SUBBEGOWDA
AGED ABOUT 40 YEARS,
3. SMT. KOMALA
W/O LATE S.A. SUBBEGOWDA
AGED ABOUT 75 YEARS,
4. SMT. UMADEVI
W/O LATE SRI MAHESH
AGED ABOUT 45 YEARS,

ALL ARE RESIDING AT PRESENT
448/B, 1ST MAIN,
CHIKKAMARANAHALLI HOBLI,
NEAR NEW BEL ROAD,
BENGALURU-560054.

APPELLANT NOS.1 TO 3
PREVIOUS ADDRESS:.
NO.18/1, 5TH MAIN ROAD,
NEIGHBOURHOOD, BLOSSOMS,
CHIKKAMARANAHALLI,
DEVASANDRA, MSR NAGAR,
MSR IT POST, BENGALURU-560054.

...APPELLANTS

(BY SRI G.B. NANDISH GOWDA, ADVOCATE)





AND:

1. SMT. RADHAMANI .N
W/O SRI M.A. NARASIMHAMURTHY
AGED ABOUT 45 YEARS,
2. SRI M.A. NARASIMHAMURTHY
S/O LATE SRI. ANANTHAPPA @ ANANTHAIAH
AGED ABOUT 59 YEARS,

BOTH R1 AND R2 ARE R/AT NO.627/1,
1ST MAIN ROAD, 2ND CROSS,
NEAR ESWARA TEMPLE, MSRIT POST,
MATHIKERE, BENGALURU-560054.
3. SRI. M.A. JAYARAM
S/O LATE SRI. ANANTHAPPA @ ANANTHAIAH
AGED ABOUT 75 YEARS
R/AT NO.663/3, APN NILAYA
1ST CROSS, 1ST MAIN,
MATHIKERE, MSRIT POST,
BENGALURU-560054.
4. SRI A. SATHYANARAYANA
S/O LATE SRI. ANANTHAPPA @ ANANTHAIAH
AGED ABOUT 70 YEARS,
R/AT NO.663/4, APN NILAYA
1ST MAIN ROAD, 1ST CROSS,
NEAR ESWARA TEMPLE, MSRIT POST,
MATHIKERE, BENGALURU-560054.
5. SRI. A. KODANDARAM
S/O LATE SRI. ANANTHAPPA @ ANANTHAIAH
AGED ABOUT 68 YEARS,
RESIDING AT NO.22,
SRI. ANJENEYA SWAMY TEMPLE ROAD,
CHIKKAMARANAHALLI,
NEAR NEW BEL ROAD,
DEVASANDRA, MSR NAGAR,
BENGALURU-560054.
6. SRI. A. SRINIVAS
S/O LATE SRI ANANTHAPPA @ ANANTHAIAH
AGED ABOUT 57 YEARS
NO.627, 1ST MAIN ROAD,



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2ND CROSS, NEAR ESWARA TEMPLE,
MSRIT POST, MATHIKERE,
BENGALURU-560054.

...RESPONDENTS

(BY SRI K.H. THIMMAIAH, ADVOCATE FOR C/R1 & R2)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF CPC., AGAINST THE ORDER DATED 19.12.2025 PASSED ON I.A.NOS.2 & 6 IN O.S.NO.3667/2025 ON THE FILE OF THE VI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCCH.11), ALLOWING THE I.A.NO.2 FILED UNDER ORDER 39 RULE 1 AND 2 READ WITH SECTION 151 OF CPC AND DISMISSING THE I.A.NO.6 UNDER ORDER 39 RULE 4 OF CPC AS NOT MAINTAINABLE.

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

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

ORAL JUDGMENT

This miscellaneous first appeal is filed calling in question the order dated 19.12.2025 passed on I.A. Nos.2 and 6 in O.S. No.3667/2025 by the VI Additional City Civil and Sessions Judge, Bengaluru (CCH-11) ('Trial Court' for short), whereby the Trial Court has granted an order of temporary injunction restraining the defendants from interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule property and rejected the application seeking vacating of the interim order.



Brief facts:

2. The plaintiffs instituted a suit for declaration and consequential relief of permanent injunction in respect of the suit schedule property. The plaintiffs contend that title to the suit schedule property traces through a settlement deed dated 10.05.1959 executed in favour of Venkatalakshmmamma, followed by a Will dated 26.09.1995 under which the property was bequeathed and thereafter, a registered gift deed dated 25.03.2013 executed in favour of plaintiff No.1. On the strength of these documents, plaintiffs asserted that they have become absolute owners in possession and enjoyment of the suit schedule property supported by kathas, tax paid receipt and other revenue records.

3. The defendants, on the other hand, set up an independent title, contending that the property originally purchased by late S. A. Subbegowda under the registered sale deed dated 09.09.1970, which in turn traces its origin to an earlier sale deed dated 05.06.1943. Upon his



demise, the property devolved upon his legal heirs and subsequently, the property was divided and gift deeds have been executed in favour of the defendants, who claim to be in possession of their respective portions. Thus, the defendants assert that they are the true owners in possession and that the plaintiffs have no right over the property. The dispute essentially arises over the overlapping claims over the western and eastern side of the property. Each party asserts exclusive ownership of the property based on its respective chain of title.

4. The Trial Court, by the impugned order, held that the plaintiffs have made out a *prima facie* case, and are in possession and enjoyment of the suit schedule property and accordingly, allowed the application by granting temporary injunction and rejected the application for vacating the *ex parte* temporary injunction.

5. Learned counsel for the appellants contends that the Trial Court has failed to appreciate that the



appellants have established their title through a registered sale deed and subsequent gift deeds, while the plaintiffs' title is seriously disputed and clouded, and therefore, no injunction ought to have been granted. It is submitted that there is no material to show actual possession of the plaintiffs or any imminent threat of interference and that the Trial Court has erroneously recorded a findings on the existence of a *prima facie* case and balance of convenience without proper appreciation of the documents.

6. *Per contra*, learned counsel for the respondents-plaintiffs supports the impugned order and submits that the plaintiffs are in settled possession and the defendants are trying to encroach upon and put up construction thereon, thereby necessitating protection by way of an injunction and the Trial Court has rightly exercised its discretion in a judicial manner and no interference is warranted.



7. This Court has carefully considered the rival submissions and perused the material on record. The point that arises for consideration is:

"Whether the Trial Court was justified in granting an order of temporary injunction in favour of the plaintiffs under Order XXXIX Rules 1 and 2 CPC?"

8. At the outset, it is to be stated that it is well settled that an Appellate Court will not interfere with the discretion exercised by the Trial Court in granting or refusing an injunction, unless such discretion is shown to be arbitrary, capricious or perverse or contrary to the settled principles governing injunction. The Apex Court in the case of ***Wander Ltd., Vs. Antox India Pvt. Ltd.***¹ (*Wander Ltd.*), has held at paragraph No.14 as under :

"14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have

¹ 1990 (Supp) SCC 727



been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in Printers (Mysore) Private Ltd. v. Pothan Joseph: (SCR 721)

"... These principles are well established, but as has been observed by Viscount Simon in Charles Osenton & Co. v. Jhanaton '...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to



the application of well settled principles in an individual case'."

The appellate judgment does not seem to defer to this principle."

9. The Apex Court held that an Appellate Court does not sit in an appeal over the findings as if it were deciding the application afresh, but only examines whether the discretion has been exercised on sound judicial principles.

10. On careful consideration of the pleadings and documents placed on record, it emerges that the identity of the suit property itself is in serious dispute between the parties. The plaintiffs assert title and possession over a specific portion of the property measuring East-West 72 feet and North-South 30 feet, forming part of the property bearing Khanesumari No.7, Municipal Khata No.3 situated at Mathikere Village. Their claim is founded on a chain of documents commencing from the settlement deed of the year 1959, followed by a Will dated 26.09.1995 and



culminating in a registered sale deed in favour of plaintiff No.1, on the strength of the same they claim to be in settled possession.

11. On the other hand, the defendants set up an independent and valid title to a larger extent of the property measuring East-West 62 feet and North-South 61 feet, tracing their title through a registered sale deed dated 09.09.1970 in favour of S.A. Subbegowda and earlier antecedent title. It is their case that the said property, upon succession, has been divided, and portions thereof have been conveyed under registered gift deeds in favour of the defendants, who are stated to be in possession of the western portion.

12. Thus, both the parties are asserting possession over portions of what appears to be either the same property or adjoining portions of a larger extent, with each side disputing the other's boundaries and measurements. The plaintiffs allege encroachment by the defendants on



the western side of the property, whereas the defendants contend that the construction activity undertaken is within their property and does not form part of the plaintiffs' holding.

13. In this backdrop, it is evident that the dispute is not merely one of interference, but involves complex questions relating to boundaries, identity, and extent of the respective property, which cannot be conclusively determined at an interlocutory stage without a full-fledged trial. In the circumstances, the Trial Court was justified in proceeding on a *prima facie* assessment of possession and title without embarking upon a final adjudication of competing claims. The impugned order passed by the Trial Court does not warrant any interference, as it does not suffer from any perversity or illegality and accordingly, the point framed for consideration is answered and this Court pass the following:

ORDER

- i. The miscellaneous first appeal ***dismissed***.



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- ii. The impugned order dated 19.12.2025 passed on I.A. Nos.2 and 6 in O.S. No.3667/2025 by the VI Additional City Civil and Sessions Judge, Bengaluru (CCH-11) is ***confirmed***.

Sd/-

JUSTICE K.S. HEMALEKHA

MBM
List No.: 1 Sl No.: 42