



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 1099 OF 2026 (CPC)

BETWEEN:

1. RAVI A. KUNDER
S/O. ANAND M. KUNDER
AGED ABOUT 69 YEARS

2. SMT. REKHA R. KUNDER
W/O. RAVI A. KUNDER ,
AGED ABOUT 59 YEARS,

BOTH ARE R/AT NO.1006,
'C' WING, CENTURY INDUS,
K.G.ROAD, RAJARAJESHWARINAGAR,
BENGALURU - 560 098.

...APPELLANTS

(BY SRI. VIJAYAKUMAR KO., ADVOCATE)

AND:

1. SMT. GIRIJA
W/O. V. M. RAGHU,
AGE: MAJOR, R/AT NO.3,
17TH MAIN ROAD,
AGS LAYOUT, AREHALLI,
BENGALURU - 560 061.

2. M/S. GREY BRICKS PROPERTIES LLP
REPRESENTED BY ITS
DESIGNATED PARTNER
SRI. DINESH PALLIPATI
S/O. P. BHASKAR NAIDU,
NO.113, 11TH MAIN,



4TH 'T' BLOCK, JAYANAGAR,
BENGALURU - 560 041.

...RESPONDENTS

THIS MFA IS FILED U/O.43 RULE 1(R) OF THE CPC, AGAINST THE ORDER DATED 13.08.2025 PASSED ON IA NO.1 IN O.S.NO.2599/2025 ON THE FILE OF THE XIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, REJECTING THE IA NO.1 FILED UNDER ORDER XXXIX RULE 1 AND 2 R/W. SECTION 151 OF CODE OF CIVIL PROCEDURE.

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

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

ORAL JUDGMENT

The present Miscellaneous First Appeal is preferred by the plaintiffs against the Order on I.A.No.1 in O.S.No.2599/2025 on the file of the XIX Additional City Civil and Sessions Judge, Bengaluru City ('Trial Court' for short), whereby the Trial Court rejected the application filed by the plaintiffs under Order XXXIX Rules 1 and 2 read with Section 151 CPC seeking temporary injunction restraining the defendants, their men or anybody acting under them or through them from putting up any construction in the schedule property pending disposal of the suit.



2. Heard learned counsel appearing for the appellants and perused the material on record.

Brief facts:

3. The appellants/plaintiffs instituted suit in O.S.No.2599/2025 seeking :

- i. Declaration that they are the absolute owners in possession of the suit schedule property and,
- ii. Permanent injunction restraining the respondents/defendants from putting up construction.

4. Along with the suit, the plaintiffs filed I.A.No.1 under Order XXXIX Rules 1 and 2 CPC seeking temporary injunction restraining the defendants from interfering with the plaintiffs' possession and from putting up any construction in the suit schedule property.

5. An *ex parte* temporary injunction was initially granted on 08.04.2025. Upon contest, the Trial Court,



after considering the material on record, rejected I.A.No.1 and vacated the *ex parte* temporary injunction. Aggrieved by which, the appellants are before this Court.

6. Learned counsel for the appellants contends that the impugned order passed by the Trial Court is without considering the fact that the appellants have acquired title over the suit property under the registered sale deed dated 20.05.1995 and their names have been entered in the revenue records supported by katha and tax paid receipts. It is submitted that the Trial Court has failed to appreciate that the appellants had satisfied the three ingredients that are necessary for granting of temporary injunction namely, *prima facie* case, balance of convenience and irreparable injury. It is contended that the rejection of the injunction application is contrary to the material on record and warrants interference.

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



"Whether the impugned order passed by the Trial Court on I.A.No.1 warrants any interference by this Court?"

8. It is settled proposition of law that the Appellate Court, while exercising jurisdiction under Order XLIII Rule 1 CPC, will not interfere with the discretion of the Trial Court unless the same suffers from perversity, illegality or non-application of mind, as held by the Apex Court in ***Wander Ltd. and Another Vs. Antox India Pvt. Ltd.***¹ (*Wander Ltd.*) and ***Dalpat Kumar and Another Vs. Prahlad Singh and Others***² (*Dalpat Kumar*). Bearing in mind the settled proposition of law, the entire material on record are perused.

9. At the outset, it is to be stated that the plaintiffs' rely on the sale deed dated 20.05.1995 executed by one Champala Bhandari represented by his GPA holder Pradeep B. Ranka. The defendants have produced material demonstrating that the land in question originally

¹ 1990 (Supp) SCC 727

² (1992) 1 SCC 719



form part of Sy.No.22/2 granted to Shettappa. Proceedings in PTCL culminated in order dated 23.07.2007 restoring the land to the original grantee. The said order has attained finality, having been confirmed in appeal, W.P.No.12160/2011, W.A.No.4754/2011 and SLP preferred by Champalal Bhandari in SLP No.17985/2012. The R.P.No.1908/2012 in SLP also came to be dismissed. The Curative Petition (Civil) petition filed by Champalal Bhandari No.281/2012, also came to be dismissed by the Apex Court on 21.02.2013. Thus, the vendor of the plaintiffs have no subsisting title at the time of execution of the sale deed in favour of the plaintiffs. In such circumstances, any subsequent sale is void in law and revenue entries and katha documents do not confer title.

10. The Trial Court, on appreciation of these aspects, has recorded a finding that:

- i. No *prima facie* case is made out.



- ii. Balance of convenience does not lie in favour of the plaintiffs.
- iii. No irreparable injury is established.

11. This Court finds that the Trial Court considered all material aspects and exercised its jurisdiction judicially. The findings recorded do not suffer from any perversity warranting any interference. The point framed for consideration is answered accordingly and this Court pass the following:

ORDER

- i. The Miscellaneous First Appeal is hereby ***dismissed.***
- ii. Order on I.A.No.1 in O.S.No.2599/2025 on the file of the XIX Additional City Civil and Sessions Judge, Bengaluru City is hereby ***confirmed.***

Sd/-

JUSTICE K.S. HEMALEKHA