



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.1405 OF 2026 (CPC)

BETWEEN:

1. SRI G. RAJU
S/O GOVINDAPPA,
AGED ABOUT 51 YEARS,
R/AT KADUGODI VILLAGE,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU.
2. SRI G. VENKATESH
S/O LATE PUTTAPPA,
AGED ABOUT 50 YEARS,
R/AT NO.104, ESHWARA TEMPLE ROAD,
KADUGODI, BIDARAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU.

...APPELLANTS

(BY SRI SHIVASHANKAR K., ADVOCATE)

AND:

1. SRI M. ABBAIAH
DEAD BY HIS LR's.
- 1(a) SMT. MUNIYAMMA
D/O LATE M. ABBAIAH,
AGED ABOUT 60 YEARS,
- 1(b) SMT. LAKSHMAMMA
D/O LATE M. ABBAIAH,
AGED ABOUT 58 YEARS,





- 1(c) SMT. RENUKAMMA
W/O LATE KRISHNAPPA,
AGED ABOUT 51 YEARS,
- 1(d) SMT. NAVANEETHA
D/O LATE KRISHNAPPA,
AGED ABOUT 31 YEARS,
- 1(e) SMT. VIJAYALAKSHMI
D/O LATE KRISHNAPPA,
AGED ABOUT 29 YEARS,
- 1(f) SMT. MAMATHA
D/O LATE KRISHNAPPA,
AGED ABOUT 27 YEARS,
- 1(g) SMT. SOUMYA
D/O LATE KRISHNAPPA,
AGED ABOUT 24 YEARS,
- 1(h) SMT. ANUSUYA
D/O LATE ABBAIAH,
AGED ABOUT 56 YEARS,
- 1(i) SMT. CHALUVAMMA
D/O LATE ABBAIAH,
AGED ABOUT 51 YEARS,

ALL ARE RESIDING AT
CHANNASANDRA VILLAGE,
KADUGODI, BIDARAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU-560067.

- 2. SMT. R. RENUKAMMA
W/O T. KRISHNAREDDY,
AGED ABOUT 59 YEARS,
R/AT MUTHSANDRA VILLAGE,
ANUGONDANAHALLI HOBLI,
HOSAKOTE TALUK,
BENGALURU RURAL DISTRICT.

...RESPONDENTS

(BY SRI K.B. CHANDRASHEKARA SWAMYU, ADVOCATE FOR C/R-2)



THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF THE CPC., AGAINST THE ORDER DATED 02.02.2026 PASSED ON IA IN O.S.NO.573/2011 ON THE FILE OF THE IV ADDITIONAL SENIOR CIVIL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, DISMISSING THE I.A. FILED UNDER ORDER 39 RULE 1 AND 2 OF CPC.

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 preferred by the plaintiffs assailing the order dated 02.02.2026 passed on I.A. in O.S. No.573/2011 on the file of the IV Additional Senior Civil Judge, Bengaluru Rural District, Bengaluru ('Trial Court' for short), whereby the application filed by the plaintiffs seeking an *ad interim* order of temporary injunction restraining defendant No.2 from putting up construction in respect of the suit schedule property came to be rejected.

2. The plaintiffs instituted suit for specific performance of the contract of an agreement of sale dated 28.08.2010. The respondents/defendants however denied the execution of the agreement of sale and about receiving the sale consideration amount. Along with the suit, the



plaintiffs filed an application under Order XXXIX Rules 1 and 2 CPC seeking restraining defendant No.2 from putting up construction. The said application came to be rejected.

3. Learned counsel for the appellants contend that permitting the construction over the suit schedule property would seriously prejudice the rights in the event the suit being decreed.

4. During the pendency of the appeal, the respondent/defendant No.2 has filed an undertaking affidavit stating that any construction put up on the schedule property shall not be claimed as a matter of equity, in the event the appellants succeed in the suit.

5. The said affidavit is taken on record.

6. The apprehension of the appellants that the constructions made over the schedule property would affect the rights of the appellants is sufficiently protected by the undertaking affidavit that no equity will be claimed on basis



of such construction. In view of the said undertaking, the following:

ORDER

- i. The miscellaneous first appeal is ***disposed of***.
- ii. The impugned order passed by the Trial Court is ***modified*** to the extent that defendant No.2 shall not claim equity on the basis of construction put up over the suit schedule property in the event the appellants succeed in the suit.
- iii. Any observation made by the Trial Court or by this Court while passing this order shall not influence the adjudication on merits of the suit.
- iv. Having regard to the fact that the suit is of the year 2011, the Trial Court shall dispose of the suit as expeditiously, preferably within a period of one year from the next date of hearing.

Sd/-

JUSTICE K.S. HEMALEKHA