



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. 2020 OF 2026 (CPC)

BETWEEN:

SRI CHIKKAMADAI AH
S/O. LATE CHIKKEGOWDA
AGED ABOUT 81 YEARS
RESIDING AT NO.90/26
2ND MAIN ROAD, 9TH CROSS
VITTAL NAGAR, BENGALURU-560 026.

...APPELLANT

(BY SRI. PRAKASHA M., ADVOCATE)

AND:

SRI CHAITANYA MANOHAR
S/O. LATE MANOHAR
AGED ABOUT 51 YEARS
RESIDING AT NO.149
1ST MAIN ROAD, MLA LAYOUT
R.T NAGAR, BENGALURU-560 032.

...RESPONDENT

THIS MFA IS FILED U/O 43 RULE 1(r) OF CPC, AGAINST THE ORDER DATED 22.10.2024 PASSED ON I.A.NO.2 IN OS.NO.7794/2022 ON THE FILE OF THE XVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-12), PARTLY ALLOWING THE I.A.NO.2 FILED UNDER ORDER 39 RULES 1 AND 2 READ WITH SECTION 151 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

This Miscellaneous First Appeal is filed by the defendant calling in question, the Order dated 22.10.2024 passed on I.A.No.2 in O.S.No.7794/2022 on the file of the XVI Additional City Civil and Sessions Judge (CCH-12) Bengaluru ('Trial Court' for short), whereby the Trial Court allowed the application filed by the plaintiff under Order XXXIX Rules 1 and 2 CPC and directed the parties to maintain *status quo* till disposal of the suit.

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

3. The plaintiff instituted a suit O.S.7794/2022 seeking relief of injunction in respect of the suit schedule property. During the pendency the suit, the plaintiff filed I.A.No.2 under Order XXXIX Rules 1 and 2 seeking temporary injunction.



4. The appeal is accompanied by I.A.No.1/2026 seeking condonation of delay of 412 days in filing the appeal. The reasons assigned for the delay is stated at paragraph Nos.4 and 5 of the affidavit which reads as under:

"4. I submit that the miscellaneous petition has been filed for having disobey the order since I am having possession by virtue of gift deed executed by the uncle of the respondent and my protection shall be protected from the respondent. One or the other reason the respondent by filing false compliant against me for enjoying the Item No.2 and 3 of the suit schedule property.

5. I submit that earlier advocate has given NOC before the Civil Court as well as before this Hon'ble Court in writ petition, hence I could not able to concentrate the order passed by this Hon'ble Court due to my age factor and moving one court to another court at the hands of the respondent. Such being the case, there is a delay in filing the above appeal and same shall be condoned. Hence it is just and necessary the delay in filing the above appeal and same may be condoned and permit us to file the above appeal. The delay in filing the appeal



proceedings is bona-fide one, but not intentional one."

5. The sum and substance of the reason is that due to change of advocate and issuance of NOC, coupled with appellant's age and involvement of multiple proceedings, the appellant could not take timely steps to challenge the order and the delay is stated to be bona fide and not intentional. Upon hearing the learned counsel for the appellant and perusal of the material on record, this Court is of the opinion that the delay of 412 is inordinate in challenging the order of *status quo* and the delay is not satisfactorily explained. The reasons assigned do not constitute sufficient cause for condonation of such inordinate delay. The impugned order pertains to an interlocutory application, wherein the Trial Court has directed to maintain *status quo*.

6. In order to see that the appeal is not dismissed on technical grounds, this Court has considered the appeal on its merits and perused the impugned order of the Trial



Court, wherein the Trial Court has recorded finding on existence of a *prima facie* case, balance of convenience and irreparable injury. The impugned order is passed to preserve the subject matter of the suit and no perversity, 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. Consequently, I.A.No.1/2026 is also ***dismissed.***
- iii. It is clarified that the observations made by the Trial Court while considering I.A.No.2 as well as the observation made by this Court in the present appeal, shall not influence the Trial Court while disposing the suit on its merits independently and in accordance with law.

Sd/-

JUSTICE K.S. HEMALEKHA