



NC: 2026:KHC:16297
MFA No. 818 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.818 OF 2017 (CPC)

BETWEEN:

SMT. RAJAMMA
W/O KEMPAGOWDA
R/AT NO.1086, E BLOCK,
POLICE QUARTERS,
MANDYA CITY, PIN-571401

PRESENTLY R/AT
NO.K/T 347, 11TH CROSS,
CHAMUNDESHWARINAGAR,
MANDYA-571401.

...APPELLANT

(BY SRI DARSHAN PATIL, ADVOCATE FOR
SRI SHIVAPRASAD SHANTHANAGOUDAR, ADVOCATE)

AND:

SRI SHIVALINGAIAH
S/O S.K. DEVAIAH,
AGED ABOUT 53 YEARS,
R/AT NO.377, 15TH CROSS,
KEB COLONY, MANDYA CITY,
PIN CODE-571401.

...RESPONDENT

(BY SRI NITIN RAMESH, ADVOCATE)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) READ WITH
SECTION 151 OF CPC AGAINST THE ORDER DATED 18.10.2016
PASSED IN MISC.NO.2/2012 ON THE FILE OF THE I ADDITIONAL





SENIOR CIVIL JUDGE AND CJM, MANDYA, ALLOWING PETITION
FILED UNDER ORDER 39 RULE 2A 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 defendant No. 1 assailing the order dated 18.10.2016 passed in Miscellaneous No. 2/2012 on the file of the I Additional Senior Civil Judge CJM, Mandya ('the trial Court' for short). By the impugned order, the trial Court allowed the Miscellaneous Petition filed under Order XXXIX Rule 2A and imposed a penalty of ₹. 3,000/- on the appellant/defendant No. 1 for alleged violation of the injunction order.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent.



BRIEF FACTS

3. The respondent/plaintiff instituted OS No. 156/2007 for relief of specific performance. Along with the suit, an application under Order XXXIX Rule 1 and 2 of CPC was filed restraining the defendant No. 1 from alienating the suit schedule property pending disposal of the suit. The trial Court by order dated 24.10.2008 granted injunction restraining the alienation of the suit property. The plaintiff filed Miscellaneous Petition under Order XXXIX Rule 2A to initiate contempt against the defendant No.1 for violating the injunction order granted by the trial Court on 24.10.2008 contending that the defendant No.1 in violation of the Court's order had executed an agreement of sale dated 06.06.2008 in favour of defendant No. 2. Consequently, the proceedings under Order 39 Rule 2A was initiated. The trial Court after considering the material allowed the petition and imposed penalty of ₹.3,000/-.



4. The learned counsel appearing for the appellant would contend that the alleged agreement of sale on which ground the plaintiff filed an application under Order XXXIX Rule 2A is dated 06.06.2008 whereas the injunction order is dated 24.10.2008 and hence there is no violation of the injunction that could be attributed to the defendant. It is submitted that the trial Court has failed to appreciate the pleadings and evidence and imposition of penalty is unsustainable in law.

5. Per contra, the learned counsel appearing for the respondent sought to justify the impugned order and submits that the respondent/plaintiff filed an application under Order XXXIX Rule 1 and 2 restraining the defendant from alienating the suit schedule property which was allowed on 13.08.2007. The MFA was preferred by defendant No. 1 before this Court which came to be disposed of directing the parties to maintain *status quo*. Before filing of MFA before this Court, the agreement of sale dated 06.06.2008 was executed and the challenge



made by the defendant No. 1 having failed in MFA before this Court, cannot now contend that she was unaware about the injunction order which was passed in the year 2007. Learned counsel submits that the trial Court on considering that there was an utter violation of the injunction order granted by the trial Court has imposed a penalty, which is a meager amount of ₹.3,000/- whereas the violation of the injunction order would have been an imposition of civil imprisonment, which the trial Court refrained by considering that the appellant was a woman and cannot be sentenced to imprisonment. Despite that the appellant has not even deposited ₹ 3,000/- which has been ordered by the trial Court and non-deposit of the said amount is also a violation of the Court's order.

6. In the context of non-deposit of the amount, learned counsel for the appellant submits that it was due to the records being called for before this Court, the deposit was not made due to *bona fide* reasons.



7. This Court has carefully considered the rival contentions and perused the material on record.

8. The point that arises for consideration is,
*whether the impugned order passed by
the trial Court warrants any interference by this
Court?*

9. Undisputedly, the injunction order was in force restraining alienation of the suit property. The documentary evidence, Ex.P2-postal acknowledgement,. Ex.P3-deposition, establishes that the appellant had knowledge of the injunction order and she has entered into an agreement of sale despite such knowledge. The injunction application under Order XXXIX Rule 1 and 2 was allowed on 13.08.2007. The alleged agreement of sale is dated 06.06.2008. Thereafter, MFA 1750/2009 was filed and disposed on 17.06.2010. The parties were directed to maintain status quo in respect of the suit schedule property. Exhibit P2 is the postal acknowledgment card marked through RW1 and Exhibit P2(a) is the signature of



RW1 on the postal acknowledgment card which has been served on 16.08.2007 itself. Exhibit P3 is the certified copy of the deposition of RW1 (DW1) in OS No. 156/2007. The defendant No.1 had filed the objections to the application under Order XXXIX Rule 1 and 2 on 16.09.2008.

10. Exhibit P3 is the deposition in OS No. 156/2007, wherein she has deposed that she has entered into an agreement of sale with the defendant No.2. Considering all these documents, the trial Court observed that the defendant No.1 had knowledge and attempted to alienate the suit schedule property. Considering all the aspects and on the ground that defendant No.1 was a woman and cannot be sentenced to imprisonment has imposed a cost of ₹.3,000/- as penalty on the appellant. It is borne from the records that though the contention of the appellant is that she was unable to deposit the amount since the records were before this Court, however there is no justification as to why such an amount could not have



been deposited before this Court, nor it is demonstrated that any efforts to deposit the amount is made by the appellant. Hence, such contention of the appellant cannot be accepted. Imposition of penalty being not deposited before the Court reflects continued non-compliance. The penalty imposed by the trial Court is minimum especially when civil imprisonment could have been imposed. No ground is made out to interfere with the well reasoned order of the trial Court. Accordingly, the point framed for consideration is answered and this Court pass the following :

ORDER

- (i) The Miscellaneous First Appeal is ***dismissed.***
- (ii) The appellant is directed to pay ₹ 3,000/- (as imposed by the trial Court) and ₹.10,000/- as additional cost by this Court and the total amount of ₹ 13,000/- shall be deposited before the Karnataka State Legal Services Authority within a period of one week from



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the date of receipt of the certified copy of
this order.

Sd/-

JUSTICE K.S. HEMALEKHA

CKL
List No.: 1 SI No.: 38