



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 11506 OF 2024 (GM-CPC)

C/W

WRIT PETITION NO. 11503 OF 2024 (GM-CPC)

IN WP No. 11506/2024

BETWEEN:

1. SHASHIDHAR SHETTY
AGED ABOUT 54 YEARS,
S/O CHANNAYYA SHETTY
R/AT KATBELTHOOR VILLAGE,
KUNDAPURA TALUK
P.O.KATTEBELTHUR-576230
UDUPI DISTRICT

...PETITIONER

(BY SRI. VYASA RAO K S., ADVOCATE)

AND:

1. SHRIMATHI SHEDTHI
AGED 66 YEARS,
W/O SUREDNRA SHETTY
R/AT KATBELTHOOR VILLAGE,
KUNDAPURA TALUK
P.O. KATTEBELTHUR-576230
UDUPI DISTRICT
2. SUBRAYA ACHARY
AGED 67 YEARS,
3. GOPAL ACHARY
AGED 63 YEARS,





4. SHIVARAM ACHARY
AGED 55 YEARS,

RESPONDENTS 2 TO 4 ARE
CHILDREN OF ANNAPPA ACHARY
AND R/O. KATBELTHOOR VILLAGE,
KUNDAPURA TALUK
P.O. KATTEBELTHUR-576230
UDUPI DISTRICT

5. KIRAN SHETTY
AGED 45 YEARS

6. ASHOK SHETTY
AGED 43 YEARS

7. PRADEEP SHETTY
AGED 41 YEARS

RESPONDENTS 5 TO 7 ARE
CHILDREN OF PRABHAVATHI SHEDTHI
R/O PATEL HOUSE,
GANGOLLI VILLAGE
P O GANGOLLI-576201
UDUPI DISTRICT

...RESPONDENTS

(BY SRI.K.CHANDRANATH ARIGA, ADVOCATE FOR C/R1
VIDE ORDER DATED: 22.4.2024, NOTICE TO R2 TO R7 IS
DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
RECORDS AND QUASHING THE IMPUGNED ORDER
ANNEXURE-A DTD 27.02.24 PASSED BY THE SENIOR CIVIL
JUDGE, KUNDAPURA IN MA NO. 8/24 SETTING ASIDE THE
ORDER ANNEXURE-B DTD 04.01.24 PASSED BY THE PRL. CIVIL
JUDGE AND JMFC, KUNDAPURA ON IA NO. 2 IN OS NO. 366/23
AND ETC.,



NC: 2026:KHC:12390
WP No. 11506 of 2024
C/W WP No. 11503 of 2024

IN WP NO. 11503/2024

BETWEEN:

1. SHASHIDHAR SHETTY
AGED 51 YEARS,
S/O CHANNAYYA SHETTY
R/AT KATBELTHOOR VILLAGE,
KUNDAPURA TALUK
P.O. KATTEBELTHUR-576230
UDUPI DISTRICT

...PETITIONER

(BY SRI. VYASA RAO K S., ADVOCATE)

AND:

1. SHRIMATHI SHEDTHI
AGED 66 YEARS,
W/O SURENDRA SHETTY
R/AT KATBELTHOOR VILLAGE,
KUNDAPURA TALUK
P.O.KATTEBELTHUR-576230
UDUPI DISTRICT

...RESPONDENT

(BY SRI.K.CHANDRANATH ARIGA, ADVOCATE FOR C/R1)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER ANNEXURE-A DTD. 27/02/2024 PASSED BY THE SENIOR CIVIL JUDGE, KUNDAPURA IN MA NO. 5/2024 CONFIRMING THE ORDER ANNEXURE-B DTD. 04/01/2024 PASSED BY THE PRL. CIVIL JUDGE AND JMFC, KUNDAPURA ON IA NO. 5 IN OS NO. 366/2023.

THESE PETITIONS, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

Both these petitions arise out of O.S.No.366/2023 pending on the file of the Principal Civil Judge and JMFC, Kundapura.

2. Briefly stated the facts giving rise to the present petitions are as follows:

Respondent No.1/plaintiff instituted the aforesaid suit against the petitioner/defendant No.1 and respondent Nos.2 to 7/defendant Nos.2 to 7 for declaration of permanent injunction and other reliefs in relation to the suit schedule immovable properties. Along with the suit, respondent No.1/plaintiff having filed an application-I.A.No.2 for temporary injunction under Order XXXIX Rule 1 and 2 CPC, the said application was opposed and contested by the petitioner/defendant No.1 and culminated in an order dated 04.01.2024 passed by the trial Court rejecting I.A.No.2 filed by the plaintiff. Aggrieved by the said order rejecting I.A.No.2, the plaintiff approached the First Appellate Court in M.A.No.5/2024. In addition thereto, the plaintiff filed an application-I.A.No.5 for mandatory injunction,



which was allowed by the trial Court. Aggrieved by which, the petitioner/defendant No.1 herein has preferred M.A.No.8/2024. Both the appeals having been taken up together for consideration, the First Appellate Court proceeded to pass the impugned order allowing M.A.No.8/2024 filed by the plaintiff and dismissing M.A.No.5/2024 filed by the petitioner/defendant No.1 by holding as hereunder.

"24. Point No.3: In view of the following findings and discussion, I proceed to pass the following order:-

MA No.8/2024 is allowed

MA No.5/2024 is dismissed.

Consequently, the interim order passed on I.A.No.II under Order 39 Rules 1 and 2 of CPC vide dated 04-01-2024 pm the file of the Principal Civil Judge and JMFC, in O.S.No.366/2023 is set aside and consequently I.A.No.II is allowed and defendants are restrained from blocking or damaging or causing interference in enjoyment of ABCD Road in any manner pending disposal of the main suit.

Further, in view of the dismissal of MA No.5/2024, the impugned order of the trial Court made on I.A.No.5 filed under Order 39 rule 1 and 2 of CPC is stands confirmed.

No order as to costs.



Office is to send the copy of the judgment to the trial court for its information.

The original judgment shall be kept in MFA No.8/2024 and copy in MFA No.5/2024."

3. Aggrieved by the impugned orders passed in M.A.Nos.5/2024 and 8/2024, the petitioner/defendant No.1 is before this Court by way of the present petitions.

4. When the matter was listed before this Court on 22.04.2024, this Court passed the following interim order:

"Shri Chandranath Ariga, learned counsel for respondent No.1 and seeks time to file objections.

Notice to remaining respondents is dispensed with at the risk of the petitioner.

Re-list on 03.06.2024.

In the meanwhile, parties are directed to maintain status quo in all respects as on today in relation to suit ABCD Road situated in plaint 'B' schedule property till the next date of hearing.

It is made clear that the present order of status quo will not enable removal of the existing gate on plaint 'B' schedule property till the next date of hearing.

Post along with W.P.No.11503/2024."



5. The aforesaid interim order passed by this Court continues to remain in force and operates between the parties event till today.

6. A perusal of the material on record will indicate that both the trial Court and first appellate Court have failed to consider and appreciate the rival contentions and the material on record in their proper perspective and have not assigned valid or cogent reasons and the impugned orders passed by the trial Court and the first appellate Court being cryptic, laconic, non-speaking and unreasoned orders, without expressing any opinion on the merits/demerits of the rival contentions, I deem it just and appropriate to set aside the orders of the trial Court and first appellate Court and remit the matter back to the trial Court for reconsideration of I.A.Nos.II and V afresh and in accordance with law by issuing certain directions.

7. In the result, the following:

ORDER

- i. Both the petitions are ***allowed***.
- ii. The impugned orders passed in M.A.No.5/2024 and M.A.No.8/2024 by the first appellate Court



and impugned orders passed by the trial Court on I.A.No.II and I.A.No.V are hereby set aside.

- iii. Matter is remitted back to the trial Court for reconsideration of both I.A.No.II and I.A.No.V afresh and in accordance with law, within a period of one month from the next date of hearing of the suit, which stands posted on 25.03.2026.
- iv. It is further directed that without prejudice to the rights and contentions of the parties, the interim order dated 22.04.2024 passed by this Court shall continue to operate and remain in force between the parties without prejudice to their rights and contentions and the trial Court shall reconsider and pass appropriate orders on I.A.No.II and I.A.No.V without being influenced by any findings and observations recorded in the said interim order or the present order.
- v. All rival contentions are kept open.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE