



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.12857 OF 2021 (GM-CPC)

BETWEEN:

1. SRI. M.B. DAYANAND,
S/O S. BASAVARAJAIAH,
AGED ABOUT 43 YEARS,
NO.323, KALLESHWARA NILAYA,
5TH MAIN ROAD, 3RD CROSS ROAD,
BHUVANESHWARI NAGARA,
T. DASARAHALLI,
BENGALURU-560005.

...PETITIONER

(BY SRI. T.S. VENKATESH, ADVOCATE)

AND:

1. SRI. HOSALAIAH,
S/O LATE BHADRIAIAH,
AGED ABOUT 50 YEARS,
MATHAHALLI VILLAGE,
MATHAHALLI POST,
DASANAPURA HOBLI,
BENGALURU NORTH TALUK-562123.

...RESPONDENT

(BY SRI. CHOKKAREDDY, ADVOCATE FOR C/R)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH JUDGEMENT DATED 05.07.2021 IN M.A.NO.14/2020 PASSED BY HON'BLE II ADDITIONAL SENIOR CIVIL JUDGE AT NELAMANGALA, ANNEXURE-A.





THIS PETITION COMING ON FOR HEARING THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated 05.07.2021 in M.A.No.14/2020 by the II Additional Senior Civil Judge, Nelamangala (for short 'Appellate Court').

2. Sri T.S. Venkatesh, the learned counsel for the petitioner submits that the petitioner filed a suit against the respondent for permanent injunction and in the said suit, an application for temporary injunction was filed, which was considered by the Trial Court and passed detailed order restraining the respondent from obstructing the use of schedule 'B' property, which is claimed as a pathway. It is submitted that the Appellate Court under the impugned order has recorded an incorrect finding that the petitioner has not arrayed the Government as a party, as the plaint indicates that the schedule 'B' property is a Government property and until the maintainability of the suit is decided, the Trial Court ought not to have granted temporary injunction. It is submitted that the finding of the Appellate Court is uncalled for, as on satisfying



the prima facie case made out by the plaintiff, the Trial Court granted injunction. It is submitted that this Court has directed the parties to maintain status quo vide order dated 19.07.2021 and the said order may be continued till disposal of the suit, so that the parties would adduce the evidence and assist the Court in deciding the suit.

3. Per contra, Sri Chokkareddy, the learned counsel for the respondent/defendant supports the order of the Appellate Court and submits that the plaint averments indicate that the schedule 'B' property is a Government property and without making the Government a party, seeking any relief would not arise. It is submitted that the Appellate Court has rightly come to the conclusion that the revenue records indicate that it is a "Sarkari Palu" and hence, the plaintiff is required to establish the maintainability of the suit before the Trial Court and until the maintainability is decided, there cannot be any injunction and hence, seeks to dismiss the writ petition. He fairly submits that the suit is of the year 2020 and the respondent being the owner of 'B' schedule property, these proceedings are creating obstruction for the respondent from



enjoyment of the property and hence, a direction may be issued to the Trial Court to dispose of the suit in a time-bound manner by continuing the status quo order as granted by this Court.

4. I have heard the arguments of the learned counsel for the petitioner, the learned counsel for the respondent and meticulously perused the material on record.

5. The petitioner filed a suit in O.S.No.170/2020 against the respondent for permanent injunction seeking a restrained order against the defendant from interfering with the plaintiff's ingress and egress to the schedule 'B' property from the road i.e., easementary rights over schedule 'B' property. The plaintiff along with the plaint filed an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure (for short 'CPC') , which was considered by the Trial Court after hearing both sides and allowed the said application restraining the defendant from putting up any construction in the 'B' schedule property till disposal of the suit. The said order was assailed by the defendant in M.A.No.14/2020 before the Appellate Court. The Appellate Court while recording the finding at paragraph



Nos.16 and 22, has come to the conclusion that the schedule 'B' property as per the plaint averment is a Government property and the suit itself is not maintainable and until the said fact is ascertained by the Trial Court, the Trial Court ought not to have restrained the defendant from use of the property. It is to be noticed that the defendant in the written statement has categorically stated that schedule 'B' property is not the Government property and it is owned by him. Be that as it may, the issue relating to the grant of permanent injunction as sought in the suit with regard to the ingress and egress claimed by the plaintiff to the schedule 'B' property is required to be adjudicated by the Trial Court in the pending suit. It is to be noticed that this Court vide order dated 19.07.2021 has directed the parties to maintain status quo with regard of the schedule 'B' property. In effect, the defendant is restrained from putting up the construction. Be that as it may, without expressing any opinion on the merits of the case, keeping open all the contentions including the maintainability of the suit raised by the defendant, it would be appropriate for the Trial Court to dispose of the suit expeditiously. The respondent has insisted that there may be a direction to the Trial Court to



dispose of the suit in a time-bound manner. I am of the considered view that no such mandamus can be issued to the Trial Court to dispose of the suit in a particular manner and in a particular time. The Trial Court shall take note of the seniority of the suit and pendency of cases before it and consider the early disposal of the suit.

6. With the aforesaid observations, the writ petition is disposed of by directing the parties to maintain status quo with regard to the schedule 'B' property till disposal of the suit.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

MD
List No.: 2 Sl No.: 2