



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

WRIT PETITION NO. 38668 OF 2019 (GM-CPC)

BETWEEN:

1. SRI. N. YOGESH,
S/O NAGARAJACHAR P,
AGE ABOUT 37 YEARS,
RESIDING AT NO 149,
1ST CROSS, KARNATAKA LAYOUT,
KURUBARAHALLI CIRCLE,
MAHALASHMIPURAM,
BENGALURU - 560 086.
2. SMT SHWETA Y,
W/O N YOGESH,
AGED ABOUT 36 YEARS,
RESIDING AT NO 149,
1ST CROSS, KARNATAKA LAYOUT,
KURUBARAHALLI CIRCLE,
MAHALASHMIPURAM,
BENGALURU - 560 086.

...PETITIONERS

(BY SRI. PADMANABHA R.,ADVOCATE)

AND:

1. GAYATHRI EDUCATION SOCIETY (REGD)
WEST OF CHORD ROAD, 2ND STAGE,
MAHALAKSHMIPURAM,
BENGALURU - 560 086.
REPRESENTED BY ITS PRESIDENT,
SMT KRISHNAVENI,
W/O NAGARAJACHAR N.



...RESPONDENT

(BY SRI. JAYAKUMAR S. PATIL, SENIOR COUNSEL FOR
SRI. SUMANTH KUMAR S. PATIL, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED
ORDER DATED 14.08.2019 ON IA NO.2 AND 3 PASSED IN
MISCELLANEOUS PETITION NO.17/2019 BY THE VI
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE BENGALURU
CITY [CCH-11] VIDE ANNEXURE-J AND ETC.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

This writ petition under article 227 of the Constitution
of India is filed by defendants seeking for the following
reliefs:

*"WHEREFORE, it is respectfully prayed that, this
Hon'ble Court may be pleased to;*

*(1) Pass a writ in the nature of certiorari and quash
the Impugned order dated 14.08.2019 on I.A. No.2 &
3 passed in Miscellaneous Petition No.17/2019, by the
VI Additional City Civil & Sessions Judge, Bengaluru
City (CCH-11) vide Annexure-J;*



(ii) And consequently allow I.A.No.2 filed by the petitioners under Section 151 of CPC in Miscellaneous Petition No.17/2019 seeking stay of ex-parte judgment and decree dated 20.08.2018 passed in O.S.No.621/2018;

(iii) Pass such other orders/reliefs by allowing this writ petition in the ends of justice and equity.

2. Heard the learned counsel for the parties.

3. Respondent herein had filed O.S.No.621/2018 against the petitioners herein with a prayer for judgment and decree against the defendants restraining them from entering the suit schedule premises pending disposal of the inquiry initiated against them and also restraining them from collecting the fees from the students, a decree of mandatory injunction directing the defendants to hand over the original records of fixed deposit receipts and other documents of the society was also sought in the said suit. The defendants were placed ex-parte in the said suit and the Trial Court decreed the suit by judgment and decree dated 20.08.2018. Challenging the ex-parte



judgment and decree dated 20.08.2018 passed in O.S.No.621/2018, defendants had filed Misc.No.17/2019 before the Trial Court under Order IX Rule 13 of CPC with a prayer to set aside the ex-parte judgment and decree passed in O.S.No.621/2018 and restore the original suit on file. In the said proceedings I.A.No.2 was filed with a prayer to stay the judgment and decree dated 20.08.2018 passed in O.S.No.621/2018 and the Trial Court while issuing notice in Misc.No.17/2019 by order dated 03.01.2019 had granted an *ad interim* stay of the judgment and decree passed in O.S.No.621/2018.

4. After the respondent had entered appearance in Misc.No.17/2019, I.A.No.3/2019 was filed under Section 151 of CPC with a prayer to vacate the *ad interim* order of stay dated 03.01.2019 and the prayer made in the said application was opposed by the petitioners herein by filing objections. The Trial Court vide order impugned dated 14.08.2019 had rejected I.A.No.2 and had allowed



I.A.No.3 and being aggrieved by the same, the petitioners are before this Court.

5. Learned Counsel for the petitioners having reiterated the grounds urged in this petition submits that this Court after hearing both the parties, on 26.08.2019 has stayed the judgment and decree dated 20.08.2018 passed in O.S.No.621/2018 and the said interim order is operating till date. He submits that the judgment and decree passed in O.S.No.621/2018 is an ex-parte decree. During the pendency of the Miscellaneous case filed under order IX Rule 13 of CPC, if the ex-parte judgment and decree is sought to be executed, the petitioners will put to hardship.

6. *Per contra*, learned senior counsel appearing for the respondent submits that interim order granted by this Court staying the operation of the judgment and decree dated 20.08.2018 passed in O.S.No.621/2018 may be continued till the disposal of Misc.No.17/2019 and the Trial



Court may be directed to expeditiously dispose of Misc.No.17/2019.

7. The said submission is placed on record.

8. Accordingly, the following:

ORDER

(i) The writ Petition is ***partly allowed.***

(ii) The impugned order dated 14.08.2019 passed on I.A.Nos.2 and 3 in Misc.No.17/2019 by the Court of VI Additional City Civil and Sessions Judge, Bengaluru is set aside.

(iii) The judgment and decree dated 20.08.2018 passed in O.S.No.621/2018 shall remain stayed till the disposal of Misc.No.17/2019 by the Court of VI Additional City Civil and Sessions Judge, Bengaluru.

(iv) It is needless to state that since miscellaneous petition is of the year 2019,



endeavors shall be made by the Trial Court to dispose of Misc.No.17/2019 as expeditiously as possible without granting unnecessary adjournment to any one of the parties.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

KVR
CT-SG
List No.: 1 Sl No.: 0