



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 13787 OF 2025 (GM-CPC)

BETWEEN:

1. SRI. SAVAKAIAH
S/O LATE JOGAIAH @ SAVAKAIAH
AGED ABOUT 64 YEARS
AGRICULTURIST
2. SRI. RAJANNA @ KARISA
S/O LATE JOGAIAH @ SAVAKAIAH
AGED ABOUT 65 YEARS
AGRICULTURIST
BOTH ARE R/AT DHANAGUR VILLAGE
KASABA HOBLI, MALAVALLI TALUK
MANDYA DISTRICT-571475.

...PETITIONERS

(BY SRI. Y K NARAYANA SHARMA., ADVOCATE)

AND:

1. SRI. PUTTASWAMY
S/O LATE MASIYAIAH @ SAVAKAIAH
AGED ABOUT 48 YEARS
AGRICULTURIST
2. SRI. PRAKASH
S/O LATE MASIYAIAH @ SAVAKAIAH
AGED ABOUT 46 YEARS
AGRICULTURIST
3. SRI SIDDARAJU
S/O LATE MASIYAIAH @ SAVAKAIAH
AGED ABOUT 43 YEARS
AGRICULTURIST





ALL ARE R/AT DHANAGUR VILLAGE
KASABA HOBLI, MALAVALLI TALUK
MANDYA DISTRICT-571475.

SRI. SAVAKAIAH @ KARIYIAIAH
@ D MADA (DEAD BY LRS)

4. SRI SAVAKAIAH DHANAGURU
S/O LATE SAVAKAIAH @ KARIYIAIAH @ D MADA
R/AT DHANAGUR VILLAGE
KASABA HOBLI, MALAVALLI TALUK
MANDYA DISTRICT-571475.

...RESPONDENTS

(BY SRI. S VASANTH MATHEW ., ADVOCATE FOR
SRI LOKESHA K, ADVOCATE FOR R1 TO R3:
SRI NEELESH P JADHAV, ADVCOATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE
ORDER DATED:31.01.2025 PASSED IN M.A. NO.9-2024 BY THE
COURT OF THE SR. CIVIL JUDGE AND JMFC AT MALAVALLI AS
PER ANNEXURE-K AND DISMISS THE SAID APPEAL BY
CONFIRMING THE ORDER DATED:29.06.2024 PASSED IN O.S.
NO.370-2015 BY THE COURT OF 1ST ADDL. CIVIL JUDGE AND
JMFC MALAVALLI TALUK MANDYA DISTRICT AS PER
ANNEXURE-G BY ALLOWING THIS WRIT PETITION AND ETC.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. In this writ petition, the petitioners-defendant Nos.1
and 2 have called in question the order dated 31.01.2025
passed by the Senior Civil Judge and JMFC, Malavalli
(hereinafter referred to as 'First Appellate Court' for short)



in M.A.No.09/2024 vide Annexure-K, whereby the order dated 29.06.2024 passed by the Learned I Additional Civil Judge and JMFC, Malavalli (hereinafter referred to as 'Trial Court' for short) in O.S.No.370/2015 on I.A.No.VIII filed under Order XXXIX Rules 1 and 2 of CPC has been set aside.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court in Original Suit.

3. The plaintiffs filed a suit in O.S.No.370/2015 before the Trial Court seeking the relief of declaration and permanent injunction. Upon issuance of suit summons, the defendants appeared and filed their written statement. Defendant No.1 filed I.A.No.VIII under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC, seeking Temporary Injunction restraining the plaintiffs along with their agents, servants, GPA holders or any other representatives acting on their behalf, from interfering with defendant No.1 peaceful possession and enjoyment of



the suit schedule property, pending final disposal of the original suit. The Trial Court, by its order dated 29.06.2024, allowed the said application. Aggrieved by the same, the plaintiffs preferred an appeal before the First Appellate Court in M.A.No.09/2024, which came to be allowed, setting aside the order of the Trial Court. Hence, the present writ petition.

4. It is a settled principle of law, as laid down by the Full Bench of this Court in ***Smt.Shakunthamma and Others vs. Smt.Kanthamma and Others***, reported in ***2014 SCC Online KAR 12022***, that the defendant cannot maintain an application for temporary injunction under Order XXXIX Rules 1(b) and (c) of the CPC and he cannot seek such relief by invoking the said provisions in a suit instituted by the plaintiff.

5. In the present case, defendant No.1 had filed an application under Order XXXIX Rules 1 and 2 of the CPC, which is not maintainable in law. The First Appellate Court,



having taken note of the settled legal position, has rightly set aside the order passed by the Trial Court.

6. In view of the above, this Court finds no error, illegality, or perversity in the impugned order dated 31.01.2025 passed by the First Appellate Court in M.A.No.09/2024 vide Annexure-K warranting interference under Article 227 of the Constitution of India. Accordingly, the writ petition is liable to be ***dismissed.***

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

HA
LIST NO.: 1 SL NO.: 85