



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.6264 OF 2022 (CPC)

BETWEEN:

SRI PRAKASH
S/O LATE SAMBASHIVAIAH,
AGED ABOUT 50 YEARS,
R/AT NO.B-90, SAMEERAPURA,
GAVIPURAM GUTTAHALLI,
BANGALORE-560004.

...APPELLANT

(BY SRI S. VIJAYA KUMAR, ADVOCATE)

AND:

SMT. RANI VIJAYAKUMAR
W/O VIJAY KUMAR,
AGED ABOUT 58 YEARS,
OPP. POLICE STATION,
KEMPEGOWDA NAGARA,
GAVIPURAM CIRCLE,
GAVIPURAM GUTTAHALLI,
BENGALURU-560004.

...RESPONDENT

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) R/W SECTION 151 OF CPC, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 21.07.2022 PASSED ON I.A.NO.II IN O.S.NO.5945/2021 ON THE FILE OF THE XIV ADDITIONAL CITY CIVIL JUDGE, BENGALURU CCH.NO.28 UNDER ORDER 39 RULE 4 OF CPC.

THIS APPEAL COMING ON FOR ORDERS, 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 21.07.2022 on I.A. Nos. I and II in OS No. 5945/2021, on the file of the XIV Additional City Civil Judge at Bangalore, CCH 28, ('trial Court' for short), whereby the application I.A.No. I filed by the plaintiff under Order XXXIX Rules 1 and 2 CPC seeking an order of temporary injunction restraining the defendants from dispossessing the plaintiff from suit schedule properties pending disposal of the suit was allowed and I.A No. II filed by the defendants/appellant under Order XXXIX Rule 4 read with Section 151 CPC seeking to vacate the order of *ad-interim* temporary injunction was modified.

BRIEF FACTS

2. The respondent/plaintiff instituted a suit in OS No. 5945/2021 seeking relief for permanent injunction



contending that she is the absolute owner in lawful possession of the suit schedule property bearing site No. 23, having acquired the title under a registered sale deed dated 12.09.2019 and that the katha stands in her name and the taxes are paid. It is the case of the plaintiff that the defendants attempted to interfere with her possession on 30.10.2021, thereby necessitating the filing of the suit along with the application under Order XXXIX Rule 1 and 2 CPC.

3. The appellant/defendant appeared, contested the claim by asserting ownership and possession over a property namely site No. 24 (renumbered as site No. 620) alleging allotment by the BDA and supported by a registered sale deed and possession certificate. It is specifically contended that the suit property claimed by the plaintiff is not identifiable and the plaintiff has no manner of right, title or possession over the property claimed by the defendant. The defendants also filed an



application under Order XXXIX Rule 4 CPC seeking vacating of the interim order.

4. Learned counsel for the appellant submits that the impugned order is perverse and contrary to the settled principles governing the grant of temporary injunction. It is urged that the plaintiff has failed to establish a *prima facie* case or possession over the suit schedule property and the documents produced and relied upon do not correspond to the property described in the plaint, thereby creating serious doubt regarding the identity of the property. It is further contended that the trial Court failed to appreciate that the appellant is in actual possession of site No. 24 (renumbered as site 620) and the plaintiff has not established the existence or lawful derivation of the site No. 23 in view of the acquisition proceedings. It is contended that when there exists a serious dispute regarding the identity and title over the property, an order of injunction ought not to have been granted and the trial



Court has misapplied the principles governing Order XXXIX Rule 1 and 2 thereby warranting interference.

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

6. The trial Court upon consideration of the pleadings and material on record framed points relating to *prima facie* case, balance of convenience and irreparable injury. The trial Court observed that the plaintiff has produced the registered sale deed, katha certificate, tax paid receipts and other documents indicating possession over the suit schedule property. The trial Court further observed that though rival claims are made by both parties with respect to the same property, the question of title requires adjudication during trial and cannot be conclusively determined at the interlocutory stage. The trial Court observed that the plaintiff has established a *prima facie* case and that the balance of convenience lies in preserving the *status quo* as to avoid multiplicity of proceeding and irreversible changes to the property and



denial of an injunction would result in irreparable loss to the plaintiff. Accordingly while modifying the earlier order, the trial Court restrained the defendants from interfering with the plaintiff's possession and simultaneously directed the plaintiff not to alter the nature of the property thereby maintaining *status quo* till the disposal of the suit.

7. The law is well settled in ***Wander Limited And Another vs. Antox India P. Ltd.***¹ (*Wander Limited*) that an appellate Court will not interfere with the exercise of discretion by the trial Court unless such discretion is shown to be arbitrary, capricious or perverse or where the Court has ignored the settled principles of law. Similarly in ***Dalpat Kumar and Another vs Prahlad Singh and Others***² (*Dalpat Kumar*), the Apex Court observed that grant of temporary injunction is based on three essential requirements, *prima facie* case, balance of convenience and irreparable injury, and that the Court should not

¹ 1990 (Supp) SCC 727

² (1992) 1 SCC 719



adjudicate the title finally at interlocutory stage. The dispute raised by the appellant/defendant relates substantially to title and identity of the property, which involves appreciation of evidence and cannot be conclusively determined at the stage of interim relief. The trial Court, having taken all these aspects, has consciously adopted a balanced approach by protecting the possession of the plaintiff, while simultaneously restraining her from altering the nature of the property.

8. No material is placed by the defendant to demonstrate that the discretion exercised by trial Court is either arbitrary or contrary to the settled principles. On the contrary, the order reflects the consideration of the three essential ingredients governing grant of injunction and ensures preservation of the subject property. No case is made out by the appellant for warranting interference with the impugned order. Hence, this Court pass the following :



ORDER

- (i) The Miscellaneous First Appeal is hereby ***dismissed.***
- (ii) The order dated 21.07.2022 on I.A. Nos. I and II in OS No. 5945/2021, on the file of the XIV Additional City Civil Judge at Bangalore CH 28, is hereby ***confirmed.***
- (iii) It is needless to observe that any observation made by this Court or by the trial Court is limited to the extent of considering the interim application and will not affect the trial by the trial Court on its merits.

Sd/-

JUSTICE K.S. HEMALEKHA