



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 22110 OF 2022 (GM-CPC)

BETWEEN:

1. TRUEBLUE SUPPLY CHAIN PVT LTD.,
REGD. UNDER COMPANIES ACT, 2013,
#30/6, 3rd FLOOR,
VAYU PATRA BUILDING,
8TH CROSS, BAHUBALI NAGAR,
JALAHALLI, BANGALORE - 560 013.

REP. BY SHREENIVASA MURTHY MANCHACHARI,
AUTHORIZED SIGNATORY AND DIRECTOR.

2. SHREENIVASA MURTHY MANCHACHARI
#30/6, 3rd FLOOR,
VAYU PATRA BUILDING,
8th CROSS, BAHUBALI NAGAR,
JALAHALLI
BANGALORE 560 013

3. HANUMANTHARAJU B R
AGED ABOUT 26 YEARS,
NO.2 HOSAPALYA VILLAGE,
MODALAKOTE POST,
NELAMANGALA TALUK
BANGALORE RURAL DISTRICT
BANGALORE 562 123

...PETITIONERS

(BY SRI. ARJUN SANTHOSH, ADVOCATE)



AND:

1. LCM LOGISTICS PVT LTD
AMBARA ARCADE
3rd FLOOR, BHADRAPPA LAYOUT,
HEBBALA ,
BANGALORE 560094

REP BY SUBBAIAH MADAPPA
DIRECTOR LCM LOGISTICKS PVT LTD,
C/O MADAPPA
AGED ABOUT 46 YEARS,
R/AT NO.2, ANIKA
3rd MAIN, DURGA LAYOUT,
VIDYARANYAPURA,
BANGALORE 560 097

...RESPONDENT

(BY SRI. ARNAV A BAGATWATI, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS, SET ASIDE THE ORDER DATED 29.09.2022 VIDE ANNEX-A ON I.A.NO.1 IN O.S.6240/2022 BEFORE THE CITY CIVIL COURT, BENGALURU (CCH-5) AND SUBSEQUENT ORDERS DATED 25.10.2022 AND 02.11.2022 EXTENDING THE IMPUGNED ORDER.

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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU



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ORAL ORDER

1. The present petition seek to challenge order dated 29.09.2022 passed by the City Civil Court, Bengaluru, (hereinafter referred to as the "Impugned Order"). By the Impugned Orders, the learned Trial Court has firstly directed emergent notice be issued by way of summons and has declined to grant an *ex-parte* injunction. A challenge has also been made to the orders dated 25.10.2022 and 02.11.2022 by which the learned Trial Court has extended the injunction.
2. This Court had by its order dated 10.11.2022 granted an interim protection to the petitioners staying the operation of the Impugned Order dated 29.09.2022.
3. None appears for the respondent despite service.
4. The learned counsel for the petitioner submits that his client is not contacting him. The record reflects that the office objections have not been complied with despite repeated opportunities.



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5. This petition seeks to challenge an order under Order XXXIX Rule 1 and 2 of the CPC. Such an order is not amenable to Article 227 of the Constitution of India since it is an appealable order in terms of Order XLIII Rule 1(r) of the CPC.

6. The Supreme Court in the case of **A. Venkatasubbaih Naidu Vs. S. Chellappan and others**¹ has held that the power to grant an *ex-parte* injunction is derived from Order XXXIX Rule 1 of the Code of Civil Procedure, since Order XLIII Rule 1(r) of the CPC makes an order under this rule appealable, the choice of remedy which lies with the parties is that they can either to move the matter to Trial Court to vacate the order under Order XXXIX Rule 4 or file an appeal under Order XLIII Rule 1(r) of the CPC. The Court further held that the statute does not distinguish between *ex-parte* and final orders in exercise of the provisions under Order XXXIX Rules 1 and 2 of the CPC and thus the disposing of an application

¹ (2000) 7 SCC 695



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under Order XXXIX of the CPC would be amenable to such challenge. The relevant extract is below:

"6. The first respondent, on behalf of himself and Respondents 2 to 5, **filed a revision petition invoking Article 227 of the Constitution before the High Court of Madras alleging that they purchased the property from the owners thereof as per different sale documents executed on 15-3-1996, and they were in possession and enjoyment of the property.** They further alleged that one Ranganathan, MLA and one Hithayatullah together expressed a wish to purchase the property from the respondents, but it was not agreed to and then those two persons exerted threat and pressure on them to capitulate to their demand. As they did not yield to such threats a suit was filed in 1998 by some parties who are now supporting the present plaintiff. The respondents further alleged that the said suit was filed at the instance and instigation of those two named persons. When they failed to get any relief therefrom another suit was caused to be filed through one M. Devasinghamani on the strength of some concocted documents. As no relief was obtained in that suit also the present suit, which is the third one in the series, has been filed at the behest of the above-named persons, according to the respondents.

7. Learned Single Judge of the High Court of Madras who disposed of the revision made the observation that the trial court ought not have granted an order of injunction at the first stage itself which could operate beyond thirty days as the court had then no occasion to know of what the affected party has to say about it. Such a course is impermissible under Order 39 Rule 3-A of the Code, according to the learned Single Judge. He, therefore, set aside the injunction order "for the clear transgression of the provisions of law" and noted that this is the third suit filed in reference to the suit property and hence deprecated the grant of ex parte injunction without notice. Though learned Single Judge further declined to go into the other allegations, he has chosen to make the following observations also:

"However, prima facie, I am satisfied that these materials are relevant for consideration before granting ad interim injunction. As per the plaint and



affidavit averments I admit that the first respondent is occupying a vacant portion of 1670 sq ft and running paper business and charcoal. But there is no document to show that the first respondent is actually in possession and running such a business except the lease deed. Hence the ex parte order is unsustainable. For all these reasons, I am of the view that the order passed by the learned Judge is liable to be set aside and it is accordingly set aside."

8. After holding thus, learned Single Judge directed the trial court to take up the interlocutory application for injunction and pass orders on merits and in accordance with law expeditiously.

9. *Shri Sivasubramaniam, learned Senior Counsel contended that the High Court should not have entertained a petition under Article 227 of the Constitution when the respondent had two remedies statutorily available to him. First is that the respondent could have approached the trial court for vacating, if not for any modification, of the interim ex parte order passed. Second is that an appeal could have been preferred by him against the said order. It is open to the respondent to opt either of the two remedies, contended the Senior Counsel.*

10. Section 104 of the Code says that:

"104. (1) An appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders:

(i) any order made under rules from which an appeal is expressly allowed by rules:"

11. Order 43 Rule 1 says that:

"1. An appeal shall lie from the following orders under the provisions of Section 104, namely—



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(r) an order under Rule 1, Rule 2, Rule 2-A, Rule 4 or Rule 10 of Order XXXIX;"

12. Order 39 Rule 1 says thus:

"1. Where in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends to remove or dispose of his property with a view to defrauding his creditors,

(c) that the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or disposition of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the court thinks fit, until the disposal of the suit or until further orders."

13. It cannot be contended that the power to pass interim ex parte orders of injunction does not emanate from the said Rule. In fact, the said Rule is the repository of the power to grant orders of temporary injunction with or without notice, interim or temporary, or till further orders or till the disposal of the suit. Hence, any order passed in exercise of the aforesaid powers in Rule 1 would be appealable as indicated in Order 43 Rule 1 of the Code. The choice is for the party affected by the order either to move the appellate court or to approach the same court which passed the ex parte order for any relief."

[Emphasis Supplied]



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7. A similar view has been taken by the Supreme Court in the case of ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabi and others Vs. Tuticorin Educational Society and others***² and ***Mohamed Ali Vs. V.Jaya and Ors.***³ which has specifically stated that, where a petition under Article 227 of the Constitution of India was filed challenging such an order held that the petition is not maintainable. The relevant extract of ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabi's*** Case is below:

"11. Secondly, the High Court ought to have seen that when a remedy of appeal under Section 104(1)(i) read with Order 43, Rule 1(r) of the Code of Civil Procedure, 1908, was directly available, Respondents 1 and 2 ought to have taken recourse to the same. **It is true that the availability of a remedy of appeal may not always be a bar for the exercise of supervisory jurisdiction of the High Court. In A. Venkatasubbiah Naidu v. S. Chellappan [A. Venkatasubbiah Naidu v. S. Chellappan,⁴], this Court held that "though no hurdle can be put against the exercise of the constitutional powers of the High Court, it is a well-recognised principle which gained judicial recognition that the High Court should direct the party to avail himself of such remedies before he resorts to a constitutional remedy".**

² (2019) 9 SCC 538

³ (2022) 10 SCC 477

⁴ (2000) 7 SCC 695



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12. But courts should always bear in mind a distinction between (i) cases where such alternative remedy is available before civil courts in terms of the provisions of Code of Civil Procedure, and (ii) cases where such alternative remedy is available under special enactments and/or statutory rules and the fora provided therein happen to be quasi-judicial authorities and tribunals. In respect of cases falling under the first category, which may involve suits and other proceedings before civil courts, the availability of an appellate remedy in terms of the provisions of CPC, may have to be construed as a near total bar. Otherwise, there is a danger that someone may challenge in a revision under Article 227, even a decree passed in a suit, on the same grounds on which Respondents 1 and 2 invoked the jurisdiction of the High Court. This is why, a 3-member Bench of this Court, while overruling the decision in Surya Dev Rai v. Ram Chander Rai [Surya Dev Rai v. Ram Chander Rai]⁵, pointed out in Radhey Shyam v. Chhabi Nath [Radhey Shyam v. Chhabi Nath]⁶, that "orders of civil court stand on different footing from the orders of authorities or tribunals or courts other than judicial/civil courts".

13. Therefore wherever the proceedings are under the Code of Civil Procedure and the forum is the civil court, the availability of a remedy under the CPC, will deter the High Court, not merely as a measure of self-imposed restriction, but as a matter of discipline and prudence, from exercising its power of superintendence under the Constitution. **Hence, the High Court ought not to have entertained the revision under Article 227 especially in a case where a specific remedy of appeal is provided under the Code of Civil Procedure itself.**

[Emphasis Supplied]

⁵ (2003) 6 SCC 675

⁶ (2015) 5 SCC 423 : (2015) 3 SCC (Civ) 67



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8. Concededly, the petitioner, instead of availing the statutory remedy available to him, has chosen to file a petition under Article 227 of the Constitution of India. Given the settled position of the law as is reproduced above, this petition is not maintainable and is accordingly ***dismissed***. The petitioner is however at liberty to take appropriate steps albeit, in accordance with law.

9. It is clarified that the matter has not been examined on merits. The rights and contentions of both parties are left open to be agitated before the appropriate forum.

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

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List No.: 1 Sl No.: 10