



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 6735 OF 2025 (CPC)

BETWEEN:

1. SRI BABU R
S/O RAMACHANDRAPPA R. M.
AGED ABOUT 48 YEARS,
R/AT. NO. 4/A, GAYATHRI TAPOVANA ROAD,
BESIDE ANANDA KUTEERA APARTMENTS,
PAVAMANA NAGARA J.P. NAGAR,
8TH PHASE, BANGALORE -560078.
2. SRI. SANJAYA T. K.
S/O KUMARA
AGED ABAOUT 29 YEARS,
R/AT KANAKAPURA MAIN ROAD,
LIBRARY ROAD, THALAGHATTAPURA,
BANGALORE-560062.

...APPELLANTS

(BY SRI. VARUN J PATIL., ADVOCATE AND
SRI A. MAHAMMED TAHIR, ADVOCATE)

AND:

1. SMT. LAKSHMI
W/O DHARMAVEERA L,
AGED ABOUT 43 YEARS,
R/AT. NO. 36, 3RD CROSS,
KONANAKUNTE CROSS,
KONANAKUNTE, BANGALORE-560062.
2. SRI. SATHISH H. R
S/O LATE RAMAKRISHANAIAH,
AGED ABOUT 53 YEARS,



R/AT. NO 121/1, 7TH CROSS,
1ST MAIN ROAD, CHAMARAJPETE,
BANGALORE-560018.

...RESPONDENTS

(BY SRI. SHIVARAMU H. C., ADVOCATE FOR R1;
NOTICE TO R2 IS H/S V/O DT.21.01.2026)

THIS MFA IS FILED U/O.43 RULE 1(r) OF THE CPC,
AGAINST THE ORDER DATED 30.07.2025 PASSED ON IA NO.2
IN O.S.NO.2251/2025 ON THE FILE OF THE XV ADDITIONAL
CITY CIVIL AND SESSIONS JUDGE, BENGALURU, ALLOWING
THE IA.NO. 2 FILED U/O.39 RULE 1 AND 2 R/W SEC.151 OF
CPC, 1908.

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 filed calling in
question the order dated 03.07.2025 passed on I.A.No.2 in
O.S.No.2251/2025 on the file of XV Additional City Civil
and Sessions Judge, Bengaluru ('Trial Court' for short),
whereby the Trial Court has granted an order of temporary
injunction restraining the defendant from interfering with
the alleged peaceful possession and enjoyment of the suit
schedule property by the plaintiff.



Brief facts:

2. Respondent No.1-plaintiff instituted O.S.No.2251/2025 seeking relief of permanent injunction contending that she is in lawful possession of the suit schedule property as tenant under respondent No.2/defendant pursuant to a lease agreement dated 25.02.2015. It is her case that she has paid substantial amounts towards advance and rent and the lease was periodically extended and continued to subsist, and that the defendant attempted to dispossess her forcibly.

3. Along with the suit, the plaintiff filed I.A.No.2 under Order XXXIX Rules 1 and 2 read with Section 151 CPC seeking temporary injunction. Upon service of summons, the defendant failed to appear and was therefore placed *ex parte* and by order dated 03.07.2025 granted temporary injunction.

4. During the pendency of the proceedings, the present appellants claim to have acquired right, title and



interest over the suit schedule property under a registered sale deed dated 29.07.2025 executed in their favour by their vendor. The appellants contended that their vendor derived title to the property through a decree of specific performance passed in O.S.No.4494/2008, whereby the original owners had agreed to sell the property. Pursuant to the decree, in execution proceedings, a registered sale deed dated 31.01.2019 was executed in favour of the said vendor namely Sri Santhosh B., who was also put in possession of the property through Court process. Thereafter, the said Santhosh B., being absolute owner, conveyed the property in favour of the appellants under a registered sale deed. It is the grievance of the appellants that despite their acquisition of title, the plaintiff instituted the suit without impleading either the said Santhosh B., or the present appellants and the Trial Court proceeded to grant an order of temporary injunction without considering the impleading application filed by the appellants.



5. Learned counsel for the appellants would contend that the appellants are the absolute owners of the suit schedule property, having derived title through the vendor Sri Santhosh B., who in turn acquired title pursuant to a decree of specific performance and execution of a registered sale deed through the Court, thereby perfecting his title and possession over the property.

6. It is contended that the plaintiff has suppressed these material facts and has filed the suit against a person who had no subsisting title to the schedule property. The alleged lease in favour of the plaintiff is not binding on the appellants, as the lessor had no right, title or interest in the property at the relevant point of time. It is further contended that the appellants, being subsequent purchaser from the lawful owner are necessary and proper parties to the proceedings and without considering their impleading application, the Trial Court has granted an order of temporary injunction which has resulted in serious



prejudice to their rights. Hence, the impugned order is liable to be set aside.

7. *Per contra*, learned counsel for respondent No.1 would contend that the plaintiff is in settled possession of the suit schedule property as a tenant under valid lease agreement and has produced document to substantiate her possession including proof of payment of advance rent, utility bills and other records. It is contended that the defendant remained *ex parte* before the Trial Court and therefore the Trial Court was justified in granting protection to the possession of the plaintiff. It is further submitted that the appellants are subsequent purchaser and their rights, if any, are subject to the possession of the plaintiff and therefore the order of injunction does not call for interference.

8. This Court has carefully considered the submissions and perused the material on record. The point that arises for consideration is:



"Whether the Trial Court was justified in granting an order of temporary injunction in favour of the plaintiff without considering the impleading application filed by the appellants?"

9. The Trial Court has granted the order of temporary injunction, on the defendant being placed *ex parte* on basis of the documents produced by the plaintiff. The order discloses that the Trial Court accepted the *prima facie* case of the plaintiff and the apprehension of dispossession.

10. However, it is equally evident that the appellants claim independent right, title and interest over the suit schedule property through a registered sale deed executed in their favour by their vendor Sri Santhosh B., whose title is stated to have been derived through a decree of specific performance and a sale deed executed through Court, much prior to the present suit filed by the plaintiff for permanent injunction. The appellants have now stepped into the shoes of the vendor Sri Santhosh B.,



and taken steps to come on record by filing the impleading application before the Trial Court. The presence of a party who claims an independent title with a schedule property is a relevant factor in a suit for injunction, particularly when the question of possession is intertwined with competing claims of ownership. The Trial Court has proceeded to grant a temporary injunction. The impleading application is pending, the denial of an opportunity to a party who claims substantive rights over the property and whose presence is necessary for the adjudication of the dispute. At the same time, this Court is conscious that the plaintiff asserts possession and therefore, while the impugned order cannot be sustained, the interest of justice requires the subject matter of the suit be safeguarded. Accordingly, the point framed for consideration is answered and this Court pass the following:



ORDER

- i. The Miscellaneous First Appeal is ***allowed in part.***
- ii. The impugned order dated 03.07.2025 passed on I.A.No.2 in O.S.No.2251/2025 on the file of XV Additional City Civil and Sessions Judge, Bengaluru is ***set aside.***
- iii. The matter is remitted to the Trial Court with direction to consider and dispose of the impleading application filed by the appellants in accordance with law and after affording an opportunity of hearing to all the concerned parties.
- iv. Upon disposal of the impleading application, the Trial Court shall consider the application for temporary injunction on its merits and uninfluenced by any of the observations made herein.

Sd/-

JUSTICE KS. HEMALEKHA