



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. 9252 OF 2025 (CPC)

BETWEEN:

1. SRI ANAND PILLAPPA
S/O LATE PILLAPPA,
AGED ABOUT 57 YEARS,
R/AT NO.650,
MUNITHIMMAIAH LAYOUT,
NEAR PREICIE TOOLS, KUDLU,
MADIWALA POST,
BANGALORE-560 068.
2. SRI UTTHAM SINGH
JM MOBILES,
AGED ABOUT 30 YEARS,
GROUND FLOOR, SHOP 1- NO 61,
MUNITHIMMAIAH LAYOUT,
NO.24/1, KUDLU,
BENGALURU-560 068.
3. SRI CHANDRU
MS CHICKEN CENTRE,
AGED ABOUT 50 YEARS,
GROUND FLOOR,
SHOP 2 NO.61,
MUNITHIMMAIAH LAYOUT,
NO. 24/1, KUDLU,
BENGALURU-560 068.
4. SRI BALAJI
1 BHK HOME NO. 61,



AGED ABOUT 37 YEARS,
GROUND FLOOR,
MUNITHIMMAIAH LAYOUT,
NO.24/1, KUDLU,
BENGALURU-560 068.

...APPELLANTS

(BY SRI. ADINARAYAN AND SRI PRADEEPA T.G., ADVOCATES)

AND:

SIDDHARTH M
S/O LATE MANI,
AGED ABOUT 34 YEARS,
R/AT NO.308, 3RD FLOOR,
ESTHRIA BUILDING,
BTM IST STAGE,
BENGALURU-560 068.

...RESPONDENT

(BY SRI. SUBRAMANI D., ADVOCATE)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF THE
CPC AGAINST THE ORDER DATED 26.11.2025 PASSED ON
I.A.NO.1 IN O.S.NO.915/2025 ON THE FILE OF THE PRINCIPAL
SENIOR CIVIL JUDGE AND JMFC, ANEKAL, BENGALURU
RURAL, ALLOWING I.A.NO.1 FILED UNDER ORDER 39 RULE 1
AND 2 READ WITH SECTION 151 OF CPC.

THIS APPEAL, COMING ON FOR 'ORDER', THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

This Miscellaneous First Appeal is directed against the order dated 26.11.2025 passed by the Principal Senior Civil Judge and JMFC, Anekal, in OS No. 915/2025, whereby, I.A. Nos. 1 and 2 filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC came to be allowed, restraining the defendant No. 1 from collecting rent and directing the defendants 2 to 4 to deposit the rent before the Court. Being aggrieved, the defendants are in appeal.

2. The respondent/plaintiff claims to be the absolute owner of the suit schedule property by virtue of a registered sale deed dated 12.10.2022 executed by the appellant No. 1 who is his father-in-law. It is contended that though appellant No. 1 was permitted to reside temporarily, he has unlawfully inducted tenants (appellants 2 to 4) and is collecting rent. Hence, the suit



is filed for eviction, recovery of rent and other consequential relief.

3. The appellants contend that the sale deed is only a nominal transaction executed to enable the plaintiff to raise a loan for marriage expenses, and that the property continues to belong to appellant No. 1. It is contended that disputes between the parties are pending including proceedings of cancellation of sale deed and partition. Learned counsel appearing for the appellants submits that the Trial Court erred in treating the sale deed as an absolute conveyance without appreciating the plea that it is a nominal transaction. It is contended that the direction directing cancellation of rent and directing deposit before Court alters the existing arrangement. It is submitted that the order amounts to granting substantial relief at an interlocutory stage and suffers from improper exercise of discretion.



4. Per contra, the learned counsel for the respondent contend that the registered sale deed establishes a *prima facie* case of ownership. It is contended that after alienation, appellant No.1 has no right to collect rent and the Trial Court rightly protected the interest of the plaintiff by directing deposit of rent.

5. This Court has carefully considered the rival contentions and perused the material on record. The point that arises for consideration is,

whether the order of the Trial Court allowing I.A.Nos. 1 and 2 restraining the appellant No.1 from collecting rent and directing appellants 2 to 4 to deposit rent before the Court calls for interference?

6. The Trial Court held that the plaintiff has made out a *prima facie* case based on the registered sale deed and the defendant No.1 has failed to substantiate his plea



that the sale deed is nominal. It is further held that the balance of convenience lies in favour of the plaintiff and consequently restrained defendant No. 1 from collecting rent and directed tenants to deposit rent before the Court.

7. The appellant No.1 is admittedly in possession and managing the property. The direction issued by the Trial Court, restraining him from collecting rent and directing defendants 2 to 4 to deposit before the Court, has the effect of disturbing the existing arrangement and virtually granting a part of the final decree sought in the suit. The settled principles governing interim relief, is laid down in ***Wander Ltd., Vs. Antox India Pvt. Ltd.***¹ (*Wander Ltd.*), at paras 9 and 14 as under :

"9. Usually, the prayer for grant of an interlocutory injunction is at a stage when the existence of the legal right asserted by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are

¹ 1990 (Supp) SCC 727



established at the trial on evidence. The court, at this stage, acts on certain well settled principles of administration of this form of interlocutory remedy which is both temporary and discretionary. The object of the interlocutory injunction, it is stated

"...is to protect the plaintiff against injury by violation of his rights for which he could not adequately be compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection must be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the 'balance of convenience' lies."

The interlocutory remedy is intended to preserve in status quo, the rights of parties which may appear on a prima facie case. The court also, in restraining a defendant from exercising what he considers his legal right but what the plaintiff would like to be prevented, puts into the scales, as a relevant consideration whether the defendant has yet to commence his enterprise or whether he has already been doing so in which latter case considerations



somewhat different from those that apply to a case where the defendant is yet to commence his enterprise, are attracted

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"14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view



may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in Printers (Mysore) Private Ltd. v. Pothan Joseph: (SCR 721)

"... These principles are well established, but as has been observed by Viscount Simon in Charles Osenton & Co. v. Jhanaton '...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case'."

The appellate judgment does not seem to defer to this principle."

8. The Court must preserve the status quo and avoid granting final relief at an interlocutory stage. In the present case, directing deposit of rent before the Court, instead of permitting the party in possession to continue collecting rent results in prejudice to the appellant No.1 and alters the nature of the property and control over the property. In view of the same, the ends of justice would



be met by directing the parties to maintain status quo, while the appellant No.1 continue to collect the rent subject to safeguards so as to protect the property. It is made clear that the above observations are only *prima facie* in nature and shall not influence the Trial Court while adjudicating the matter on merits. And in the result, this Court pass the following :

ORDER

- (i) The Miscellaneous First Appeal is ***allowed in part.***
- (ii) The order dated 26.11.2025 passed on I.A Nos. 1 and 2 in O.S.No. 915/2025 is *set aside*.
- (iii) The parties are directed to maintain *status quo* with regard to the suit schedule property.
- (iv) The appellant No.1 is permitted to continue to receive and collect rent, if any. However, the appellants shall maintain the property in its present condition and shall not create any third party rights or interest with respect to the suit



schedule property during the pendency of the
suit.

Sd/-

JUSTICE K.S. HEMALEKHA

CKL
List No.: 1 Sl No.: 74