



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 5TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.100868 OF 2026 (GM-CPC)

BETWEEN:

SMT. BHAGYAMMA @ BHADRAVADI
BHAGYAMMA W/O. BHADRAVADI PRABHU,
AGE. 62 YEARS, OCC. HOUSEWIFE,
R/O. #1397, GANDHI COLONY,
NEAR CITY MUNICIPAL HOSPITAL,
WARD NO.31, ANEKATTU ROAD,
HOSPETE-583201,
VIJAYANAGAR DISTRICT.

...PETITIONER

(BY SRI. VIJAYKUMAR B.HORATTI, ADVOCATE)

AND:

1. SRI. G. MANJUNATHA
S/O. LATE SRI. RAJASHEKHAR G.,
AGE. 55 YEARS,
OCC. BUSINESS,
2. SMT. RAJESHWARI GAVIYAPA
W/O. MANJUNATHA G.,
AGE. 50 YEARS,
OCC. BUSINESS,
3. DR. VISHWANATH GAVIYAPPA
S/O. RAJASHEKHAR G.,
AGE. 50 YEARS,





OCC. DOCTOR,

4. SMT. SANDHYARANI GAVIYAPPA
W/O. DR. VISHWANATH GAVIYAPPA,

RESP 1 TO 4 ARE RESIDENTS OF
NEAR HALASWAMY MUTT,
OLD HAGARIBOMMENAHALLI TOWN- 583212,
HAGARIBOMMENAHALLI TALUK,
VIJAYANAGAR DISTRICT.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE IMPUGNED ORDER PASSED IN O.S.NO.102/2025 IN IA NO.1 DATED 2/7/2025 AND ORDER PASSED IN M.A NO.17/2025 DATED 8/1/2026 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC, HAGARIBOMMENAHALLI PRODUCED VIDE ANNEXURES: F AND H RESPECTIVELY, AND CONSEQUENTLY TO ALLOW THE SAME. B) TO PASS ANY OTHER ORDER, DIRECTION AS DEEMED FIT IN THE CIRCUMSTANCES OF THE CASE.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



ORAL ORDER

The present writ petition is filed aggrieved by the orders passed in I.A.No.1 in O.S.No.102/2025 dated 02.07.2025 passed by the Civil Judge and JMFC, Hagaribommanahalli, the petitioner/plaintiff is before this Court.

2. The petitioner herein had filed the suit seeking permanent injunction as well as mandatory injunction. I.A.No.1 was filed under Order 39 Rule 1 and 2 R/w Section 151 of CPC, seeking an order of temporary injunction restraining the defendants from making any further constructions in the encroached portion of the suit schedule property.

3. The trial Court by impugned order had rejected I.A.No.1. While rejecting the application, the trial Court had observed that according to the plaintiff, the defendants have encroached 3 cents of the suit schedule property. In that regard, he is relying on a survey sketch that was issued on 27.02.2025. Per contra, the defendants have produced the order of the ADLR, H.B.Halli in Appeal No.1/2024-2025 dated 26.03.2025 and as per the same, the survey sketch and survey work was stayed by the ADLR, H.B.Halli. The plaintiff has filed the suit basing on the



survey sketch dated 27.02.2025. The trial Court had also observed that the plaintiff has not filed any document to show that he has questioned the said order passed by the ADLR.

4. The defendants have produced the construction license dated 11.11.2024, on going through the same it appears that defendant Nos.3 and 4 have obtained the license from the Municipality for constructing the building and the defendants have produced the Karnataka Bank statement where a housing loan of Rs.65 lakhs was sanctioned to defendant No.3. The whole basis for the plaintiff to come before the trial Court is the survey report which has been stayed. Hence, at this stage, if temporary injunction is granted it causes injustice to the defendant. The plaintiff has filed the present suit for the relief of mandatory injunction and possession. If the plaintiff succeeded in the suit, the rights will be protected by way of mandatory injunction and basing on the sketch which is stayed by the ADLR, the injunction cannot be granted restraining the defendants from making construction and accordingly, dismissed the application.

5. Learned counsel appearing for the petitioner submits that the petitioner is the owner of the land and in support of his



case, he has filed the documents to show the ownership which *prima facie* shows the title of the property of the petitioner. If the respondents proceed with the construction, it would cause lot of hardship and as balance of convenience is in his favour, the trial Court ought to have granted injunction. The trial Court without considering all these aspects had rejected the application.

6. Having heard the learned counsel appearing for the petitioner, perused the material on record. This is a suit filed for mandatory injunction and temporary injunction. Here, there is no dispute with regard to the title of the plaintiff and the title of the defendants. The whole dispute is with regard to the encroachment of the plaintiff's land by the defendant. For that purpose, she has sought for mandatory injunction and permanent injunction. The petitioner has filed the suit basing on the survey sketch dated 27.02.2025. According to the same, it shows that the defendants have encroached the land of the plaintiff. That was appealed by the defendants and the Appellate Authority has granted stay the survey sketch and the survey work. In the light of that, the trial Court had rightly held that at



this juncture, the trial Court cannot pass an order against the defendants restraining them from making the construction and if the petitioner succeeds in the suit, the trial Court will grant the mandatory injunction.

7. In the considered opinion of this Court, the trial Court had rightly balanced the interests of both the parties and rightly had rejected the I.A seeking injunction restraining the defendant from making construction. In that view of the matter, this Court finds no reasons to interfere. Hence, this Court is passing the following:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. All I.As. in this petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI

MEG
CT: UMD
List No.: 1 Sl No.: 22