



NC: 2026:KHC-D:4480
MFA No. 104611 of 2025

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 23RD DAY OF MARCH 2026
BEFORE
THE HON'BLE MR. JUSTICE ASHOK S. KINAGI
MISCELLANEOUS FIRST APPEAL NO. 104611 OF 2025

BETWEEN:

1. Y. SRINIVASA RAO
S/O Y. UMAMAHESHWARA RAO
AGE 54 YEARS, OCC MERCHANT
R/O MERCHANT, PLOT NO 3
SANDUR ROAD VIVEKANANDA NAGAR
HOSPETE CITY- 583 201
2. HANWAL MANJUNATH
S/O H. MALLESHAPPA
AGE. 46 YEARS, OCC. MERCHANT
R/O. SHREYA SADAN HOUSE NO.1980C
22ND WARD, 3RD CROSS, J.P NAGAR,
BALLARI ROAD, HOSPETE CITY,
VIJAYANAGAR DIST-583201.

APPELLANTS

(BY SRI. MRUTYUNJAYA S. HALLIKERI, ADV)

AND:

1. SRI. KOMMA SUNIL KUMAR REDDY
S/O. K. PARAMESHWARA REDDY
AGE. 27 YEARS, OCC. AGRICULTURE
R/O. PULIVENDULA TOWN
CUDDAPAH DISTRICT ANDHRA PRADESH-516390

...RESPONDENT

(BY SRI. ARUN L. NEELOPANT, ADV FOR C/R)

THIS MFA IS FILED UNDER SECTION 104 OF CPC, PRAYING TO SET ASIDE THE ORDER DATED 02.07.2025 PASSED ON I.A.NO.1 TO 3 IN O.S.NO.34/2025 BY THE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC, HOSAPETE, BY ALLOWING THE APPEAL.

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

VIJAYALAKSHMI
M KANKUPPI



Digitally signed by
VIJAYALAKSHMI
M KANKUPPI
Date: 2026.04.08
16:05:43 +0530



ORAL JUDGMENT
(PER: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI)

1. The appellants filed this appeal challenging the order on I.A.Nos.I to III dated 02.07.2025 passed in OS No.34 of 2025 by the learned Principal Senior Civil Judge and JMFC, Hosapete.

2. Brief facts leading rise to filing of this appeal are as follows:

3. The respondent filed suit for specific performance of a contract alleging that the appellants have executed a sale agreement in favour of the respondent herein by receiving consideration amount and time was fixed to perform the contract. The appellants did not perform their part of contract. The respondent a filed suit for specific performance of a contract in OS No.34 of 2025 and filed applications in I.As.I to III seeking for a relief of temporary injunction restraining the appellants from alienating the suit property in favour of anybody and from converting the same into non-agricultural purpose so as to form the residential sites therein until the disposal of the suit.

4. The applications were allowed vide order dated 02.07.2025 and the appellants were restrained from alienating



the suit property in favour of anybody and further restrained from converting the same into non-agricultural purpose to form the sites therein till the disposal of the suit.

5. Being aggrieved by the said order, the appellants are before this Court.

6. The learned counsel for the appellants submit that the appellants filed an affidavit stating that the appellants may be permitted to convert the land for non-agricultural purpose subject to the outcome of the suit and they also undertake that in case if the respondent succeeds in the suit the appellants will not claim any equity and they may be permitted to put up the construction. The said construction may be removed or demolished, if the respondent succeeds in the suit. The said affidavit reads as follows:

"We, 1) Y. Srinivasa Rao S/o Y. Umamaheshwara Rao, Age: 54 years, Occ: Merchant, R/o: Plot No. 3, Sandur Road, Vivekananda Nagar, Hospete and 2) Hanwal Manjunath S/o H. Malleshappa, Age: 49 years, Occ: Merchant, R/o: J. P. Nagar, Hospete-583201, today at Dharwad, do hereby solemnly affirm and state on oath as follows:

1. We are the Appellants in the above noted appeal and we are well acquainted with the facts and circumstances of the case. Hence, we are swearing to this affidavit.



2. We state that we have filed the above appeal being aggrieved by the Order dated 02.07.2025 passed on I.A. Nos. 1 to 3 in O.S. No.34/2025 by the Hon'ble Court of the Principal Senior Civil Judge and CJM, Hospete.

3. We hereby undertake before this Hon'ble Court that in the event we are permitted to put up construction in the suit schedule property and if the Plaintiff ultimately succeeds in the suit, we will not claim any equity on the basis of such construction and we shall, if so directed by the Hon'ble Court, remove or demolish the construction at our own cost. We further undertake that we shall not alienate the suit schedule property during the pendency of the suit."

7. The learned counsel for the respondent submit that in view of the affidavit filed by the appellants, the appeal may be disposed of.

8. The appellants have undertaken that any construction put up by them will be subject to the outcome of the suit and that they will not claim any equity based on such a construction and have undertaken to remove or demolish the construction at their own costs and also have undertaken not to alienate the suit schedule property during the pendency of the suit.

9. Accordingly, the appeal is disposed of in terms of the affidavit. The appellants shall not alienate or create any



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encumbrance over the suit property during the pendency of the suit.

Pending applications, if any, stand disposed of accordingly.

Sd/-
(ASHOK S. KINAGI)
JUDGE

kmv
CT: BSB