



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.107458 OF 2025 (GM-CPC)

BETWEEN:

1. PANDURANGA S/O. MAHADEV HARIJAN @ KAMBLE,
AGE. 45 YEARS, OCC. COOLIE
2. SHIVAJI S/O. MAHADEV HARIJAN @ KAMBLE,
AGE. 41 YEARS, OCC. COOLIE
3. MANJULA W/O. SHIVAJI NAYAR @ HARIJAN @ KAMBLE,
AGE. 40 YEARS, OCC. ANGANWADI WORKER
4. YALLAVVA W/O. MAHADEV HARIJAN @ KAMBLE,
AGE. 65 YEARS, OCC. HOUSE HOLD
5. BHARATI W/O. KALMESH HARIJAN @ KAMBLE,
AGE. 40 YEARS, OCC. HOUSE HOLD

(ALL RESIDENTS OF ALLIED AREA,
3 NUMBER GATE, NEAR ANGANWADI,
DANDELI - 581 325, DIST. UTTARA KANNADA.)

...PETITIONERS

(BY SRI. MRUTYUNJAY T.BANGI, ADVOCATE)

AND:

1. NAGARAJ D/O. DANIEL DARIYAMLA,
AGE. 39 YEARS, OCC. BUSINESS,
R/O. NEAR WATER TANK, MARUTI NAGAR,
DANDELI - 581 325, DIST. UTTARA KANNADA.





2. PRASHANT S/O. SUNDAR SHETTY,
AGE. 46 YEARS, OCC. BUSINESS,
R/O. LIG-46, BEHIND POST OFFICE,
AMBEVADI, DANDELI - 581 325,
DIST. UTTARA KANNADA.
3. SURESH S/O. KAILASCHAND JOSHI,
AGE. 39 YEARS, OCC. BUSINESS,
R/O. SARVESHWAR SWEET MART,
BARCHI ROAD, CHOUDARI GARTE,
DANDELI - 581 325, DIST. UTTARA KANNADA.
4. MARUTI S/O. BALAPPA BANDAVANKAR,
AGE. 70 YEARS, OCC. COOLIE,
R/O. NEAR KULAGI ROAD, DANDELI - 581 325,
DIST. UTTARA KANNADA.
5. ANIL S/O. NAGAPPA KOLUR,
AGE. 48 YEARS, OCC. COOLIE,
R/O. NEAR ISHWAR TEMPLE, KULAGI ROAD,
DANDELI - 581 325, DIST. UTTARA KANNADA.
6. ARATI W/O. ANIL KOLUR,
AGE. 40 YEARS, OCC. HOUSEHOLD,
R/O. NEAR ISHWAR TEMPLE, KULGAI ROAD,
DANDELI - 581 325, DIST. UTTARA KANNADA.
7. VEDA D/O. ANIL KOLUR,
AGE. 35 YEARS, OCC. HOUSEHOLD,
R/O. NEAR ISHWAR TEMPLE, KULGAI ROAD,
DANDELI - 581 325, DIST. UTTARA KANNADA.

...RESPONDENTS

(BY SRI. JAYKUMAR S.PATIL, SR. COUNSEL FOR
SRI. GIRISH V.BHAT, ADVOCATE FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO A) ALLOW THIS WRIT
PETITION. B) QUASH THE IMPUGNED JUDGMENTS DATED
01.09.2025 PASSED IN M.A.NOS.3/2025 AND 4/2025 BY THE
SENIOR CIVIL JUDGE AND JMFC, HALIYAL ANNEXED HEREBY AS
ANNEXURE-A AND B. C) RESTORE AND CONFIRM THE ORDER



DATED 25.02.2025 PASSED BY THE CIVIL JUDGE AND JMFC, DANDELI IN O.S.NO.290/2024 ANNEXED HEREBY AS ANNEXURE-C. D) PASS SUCH OTHER ORDERS AS THIS HON'BLE COURT MAY DEEM FIT.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 10.02.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

The present writ petition is filed aggrieved by the orders passed in M.A.Nos.3/2025 and 4/2025 dated 01.09.2025 by the Senior Civil Judge and JMFC, Haliyal at Haliyal, Uttara Kannada.

2. The petitioners herein are the defendant Nos.1 to 5 in the suit. The respondent Nos.1 to 3 had filed O.S.No.290/2024 against the defendants seeking relief of permanent injunction with respect to the suit property. In the suit, both the plaintiffs and defendants had filed applications under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC. I.A.No.I is filed by the plaintiffs seeking ad-interim temporary injunction against the defendants restraining them from obstructing the peaceful possession, use and enjoyment of the plaintiffs over the suit schedule property till disposal of the suit. The defendants had filed I.A.No.V under Order XXXIX Rule 1 & 2 R/w Section 151 of CPC against the



plaintiffs seeking ad-interim temporary injunction against the plaintiffs restraining them from obstructing the peaceful possession, use and enjoyment of the defendants in and over the suit properties by way of construction till the disposal of the suit.

3. The trial Court by order dated 25.02.2025 had dismissed I.A.No.I filed by the plaintiffs and allowed I.A.No.V filed by the defendants. While passing the said order, the trial Court had observed that the plaintiffs' claims to own the suit property through a Registered Sale Deed and are in actual possession. After the incident, the defendants continued to cause disturbance and obstruction. According to the defendants, they are farming 5 acres of agricultural land, which they claim belong to their ancestors and they are cultivating the land since 1924 without interference from the original owner. In the year 1976, Mr. Mahadevappa S/o Holayappa Harijan sought to enter his name in the revenue records which was rejected. Thereafter, the defendants' father challenged the denial before the High Court of Karnataka in WP.No.3080-3080A/1980. After hearing both side arguments, the High Court ordered the Land Tribunal to conduct



fresh enquiry, which subsequently rejected the application through order dated 26.05.1994.

4. The defendants' case is that the earlier owners in collusion with Land Tribunal officials, wrongly secured a ruling in their favour without conducting a proper enquiry. They also mentioned that the land was designated as non-agricultural land in the year 1957, but the defendants have been using the land for agricultural purposes since 1924. The decision of the Tribunal was challenged in WP.No.19992/1994, but it was dismissed by the High Court. It is the case of the defendants that they are in occupation of the lands since 1924 for their livelihood.

5. The trial Court had observed that in support of I.A.No.I, the plaintiffs have produced the photos, Notices, FIR, CD, RTC, order for conversion of agricultural land for non-agricultural purpose, order passed in Writ petition No.19992/1994, vacant land Sale deed dated 27.09.2024, correction deed dated 12.11.2024, Form No.3, FIR with complaint, No encumbrance certificate, Photos, Acknowledgment, Endorsement, Order in Criminal Miscellaneous No.456/2024 and a Temporary injunction order. In support of I.A.No.V, defendants have produced the



RTC, requisition for the supply of electricity, Tax paid receipts, Electricity bill, objection regarding the registration of the sale deed, photos. The trial Court has observed that from going through the allegations from both the sides, in the very outset, it can be seen that the title of the suit property itself is in dispute. It is observed that in case of **Anathula Sudhakar Vs. P.Buchi Reddy¹**, the Hon'ble Apex Court had held that when there is a cloud over the title of the suit property, a mere suit for injunction is not sufficient, especially in case of vacant land.

6. The trial Court had observed that the plaintiffs assert that they possess documents supporting their claims. At this juncture, it is essential to examine the presumption established under the Karnataka Land Revenue Act. According to Section 133 of the Act which addresses the presumption concerning the entries in official records, an entry in the Record of Rights as well as a certified entry in the Register of Mutations of the patta book shall be deemed accurate until proven otherwise or until a new entry is lawfully made. Therefore, the presumption outlined in Section 133 is not definitive rather it is subject to rebuttal.

¹ 2008 AIR (SC) 2033



Consequently, the mere existence of documents in favour of the plaintiffs does not automatically validate their claim to possession of the disputed property. A comprehensive trial is necessary to determine the rightful possessor.

7. The trial Court had observed that upon reviewing the documents submitted, particularly the photographs, it appears that the defendants are in possession of the disputed property and are actively cultivating it and accordingly had allowed I.A.No.V filed by the defendants and dismissed the I.A.No.I filed by the plaintiffs. Aggrieved thereby, the plaintiffs had filed M.A.Nos.3/2025 and 4/2025 which came to be allowed by order dated 01.09.2025.

8. While allowing M.A.Nos.3/2025 and 4/2025, the Appellate Court had observed that after perusal of the documentary evidence including the pleadings placed by both the parties, it reveals that suit property is originally owned by one Ganoba Gopal Mirashi and he is having continuous title over the property. It is the case of the respondent that through the oral agreement held in the year 1924, they are in possession of the suit property. After appearing before the trial Court in



O.S.No.290/2024, they produced no material documents except photos with respect to the suit property. Further, there is no such relevant document produced by the defendants to show the alleged oral agreement held with the original owner in the year 1924. The plaintiffs have legal ownership and possession with respect to suit schedule property on the strength of the registered sale deed.

9. Further, the defendants claim their continuous possession on oral agreement alleged to be held in the year 1924. Hence, registered sale deed prevails over oral agreement. As per Transfer of Property Act and Registration Act, title of immovable property only can pass through registered instrument. There is no document from the defendants seeking specific performance since 1924 till today. Hence, the alleged possession unless protected under Section 53A of the T.P Act, under the concept of doctrine of part performance. Since 1957, there is a mention of non agricultural land in revenue records. Hence, the alleged agricultural activity of the defendants may itself appear doubtful. Hence, plaintiffs by holding registered sale deed proved how they are connected to the suit schedule



property. The Appellate Court had found fault in the finding of the trial Court relying on the judgment of ***Anthula Sudhakar*** referred supra.

10. The Appellate Court had further discussed that the revenue records of the suit property shows the nature of the land as non-agricultural land. To that effect, plaintiffs have produced authorized revenue documents which are none other than the order passed by the D.C. in the year 1957, permitting to convert the suit property into non-agricultural land in order to construct the residential houses. Thereafter, it reveals that the father of defendant Nos.1 and 2 including the propositus of other defendants filed Form No.7 before the land granting authority and that has been rejected. Same has been challenged by filing WP.No.3080/1980 and 3080A/1980. Both petitions came to be disposed off by directing the land granting authority to get enquiry afresh. Accordingly fresh enquiry has been conducted and Form No.7 filed by defendants' families has been rejected. That order was challenged by filing WP.No.19992/1992. That also was dismissed by the High Court. The High Court of Karnataka has confirmed the disputed land not remained as an



agricultural land and the claimed occupancy rights has been declined and accordingly order has been passed.

11. Further, it is observed that as per the argument of the counsel, the adjoining land of the suit property is being cultivated by the defendants to the extent of 33 guntas, in which they have their house property and crops and hence by taking advantage of their land situated adjoining the suit property, they are claiming to be in possession of the suit property which is not reliable and considerable. Apart from it, the valuable document i.e., registered sale deed which is an instrument through which plaintiffs have got right title and interest over the suit property. Therefore, the legal possession over the suit property by the plaintiffs is to be presumed in absence of any rival material documents.

12. It is observed that as on the date of the suit, the revenue documents show plaintiffs' possession. Hence, as per Section 133 of the Land Tribunal Act, the deemed possession is to be considered in favour of the plaintiffs. Furthermore, the name of the original owner Ganoba Gopal Mirashi has continuously appeared in property extract including title column



and occupation column. Hence, the propositus of defendants has not appeared in the other column to show their possession. The oral agreement which is alleged to be held in favour of the defendants' propositus is to be proved during trial. Hence, at this stage, the possession over the suit property by the defendants is not proved. On the contrary, plaintiffs have proved their possession over suit property as on the date of the suit. Further, they have proved interference of the defendants while enjoying the suit property as defendants have lodged complaints under Atrocity Act which creates mental agony which is nothing but interference and obstruction in enjoying of the suit property with possession. Further, due to such obstruction, plaintiffs have faced inconvenience and hardship though they are having balance of convenience through the registered instrument sale deed.

13. The Appellate Court observed that the trial Court erred by ignoring these necessary ingredients. Therefore, at this stage, the plaintiffs have made out sufficient grounds or reasons to interfere with the interim order passed in I.A.Nos.I and V in O.S.No.290/2024 and accordingly, interim order passed on



I.A.Nos.I and V by the trial Court, Dandeli in O.S.No.290/2024 dated 25.02.2025 was set aside and the appeal filed by the plaintiffs was allowed. The Appellate Court had set aside the order that is passed in I.A.No.I and the same was directed to be decided along with the main petition. The I.A.No.V that is filed by the defendants seeking injunction was set aside. Aggrieved thereby, the defendant Nos.1 to 5 are before this Court.

14. Learned counsel appearing for the petitioners has argued in line with the reasons that are stated by the trial Court while allowing I.A.No.V. It is submitted that the trial Court had rightly considered I.A.No.V filed by the defendants and allowed the same. It is submitted that right from the year 1924, they are in possession of the property and when the suit is filed for bare injunction, when the defendants are denying the title of the plaintiffs, the suit for injunction is not maintainable. The trial Court had rightly considered the judgment of the Hon'ble Apex Court in ***Anthula Sudhakar***'s case referred supra and rightly held that the defendants are entitled for injunction. It is submitted that the photographs that were filed before the trial Court clearly shows that they are in possession of the property.



This has been rightly appreciated and injunction was granted. It is submitted that the defendants could satisfy the trial Court about *prima facie* case, balance of convenience and irreparable loss, whereas the plaintiffs are relying upon a latest document and submits that they are in possession of the property, whereas right from the year 1924, defendants and their predecessors are in possession and occupation over the said suit property. All these aspects were not appreciated by the Appellate court and the reasoning that is given by the Appellate Court is contrary to the material on record and it amounts to non appreciation of the evidence that is available on record.

15. Learned counsel appearing for the respondent Nos.1 to 3/plaintiffs submits that the Appellate Court had considered the evidence that is available on record and in fact the I.A.I that is filed by the plaintiffs as it is agreed that it may be decided along with the main appeal. The trial Court had not granted any injunction in favour of the plaintiffs and the Appellate Court has rightly set aside the order passed in I.A.No.V. It is submitted that orders that are passed by the High Court in several writ petitions makes it crystal clear that the property is a non



agricultural land and the request on behalf of the defendants was rejected and as the property is a non-agricultural property, question of cultivating the same would not arise.

16. Having heard the learned counsels on either side, perused the material on record. The plaintiffs claims title to the property basing on a registered sale deed and according to them, they are in occupation of the property and the defendant who is in occupation of the adjoining land is trying to show that he is in possession of the property and trying to occupy the same and in support of the same, the plaintiffs have filed all the documents. According to the defendants, they are in possession of the property right from the year 1924 and it is non agricultural land. By virtue of the proceedings in the year 1957, it shows that the property is converted into a non agricultural land. The latest judgment that is passed by the High Court in the year 1992 where the claim of the defendants is rejected and it is held to be a non agricultural land. The predecessor in title of the plaintiffs name is appearing in the records right from the beginning.

17. The Appellate Court by virtue of this order has not granted any injunction in favour of the plaintiffs and has vacated



the injunction granted to the defendants. Defendants are relying on the photographs. When the true owner of the property basing on the documents has filed a suit for injunction, now there cannot be any injunction against the true owner of the property. At this stage, basing on the photographs, an injunction ought not to have been granted by the trial Court. With regard to the other allegations that are raised at the interlocutory stage, the trial Court cannot go into all these issues at this stage and the Appellate Court had rightly vacated the order passed in I.A.No.V and in these circumstances, this Court finds no reasons to interfere. Hence, this Court deems it appropriate to pass the following:

ORDER

- i. Accordingly, the writ petition is ***dismissed*** by affirming the order passed by the Appellate Court in M.A.Nos.3/2025 and 4/2025.
- ii. All I.As. in this petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI