



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.201124 OF 2026 (RES)

BETWEEN:

1. MUSTAFA S/O GOUSPEER KHADRI
@ PEERZADE, AGE:79 YEARS,
OCC:PENSIONER, R/O. KANKAL VILLAGE,
TQ. BASAVANA-BAGEWADI, DIST. VIJAYAPUR.
2. MURTUJA S/O MUSTAFA KHADRI
@ PEERZADE, AGE:52 YEARS,
OCC:BUSINESS, R/O. KANKAL VILLAGE,
TQ. BASAVANA-BAGEWADI, DIST. VIJAYAPUR.
3. MOHIUDDIN S/O MUSTAFA KHADRI
@ PEERZADE, AGE:50 YEARS,
OCC:ADVOCATE, R/O. KANKAL VILLAGE,
TQ. BASAVANA-BAGEWADI, DIST. VIJAYAPUR.

...APPELLANTS

(BY SRI SANJEEVKUMAR C. PATIL, ADVOCATE)

AND:

1. SYED SHA SULTAN AHMED QUADRI
AGE:73 YEARS, OCC:MUTAWALLI OF DARGHA
HAZRAT SYED SHA ABDUL HASAAN QUADRI
DASTAGEER SANI (SUNNI) R/O. KANKAL
VILLAGE, TQ. BASAVAN BAGEWADI,
DIST. VIJAYAPUR-586 203.



2. ARIFULLAH @ GOREPEER
S/O GOUSPEER KHADRI @ PEERZADE,
AGE:72 YEARS, OCC:AGRICULTURE,
R/O. KANKAL VILLAGE, TQ. BASAVANA
BAGEWADI, DIST. VIJAYAPUR-586 203.
3. ZAHIRUDDIN S/O MURSHAD PEER KHADRI
@ PEERZADE, AGE:75 YEARS,
OCC:AGRICULTURE, R/O. KANKAL VILLAGE,
TQ. BASAVANA-BAGEWADI,
DIST. VIJAYAPUR-586 203.
4. BHADRU S/O ABDULLAH @ BABUSAB KHADRI
@ PEERZADE, AGE:67 YEARS,
OCC:AGRICULTURE, R/O. KANKAL VILLAGE,
TQ. BASAVANA-BAGEWADI,
DIST. VIJAYAPUR-586 203.
5. ABDULHASAN @ MUSTAFA
S/O CHANDPASHA KHADRI @ PEERZADE,
AGE:33 YEARS, OCC:AGRICULTURE,
R/O. KANKAL VILLAGE, TQ. BASAVANA
BAGEWADI, DIST. VIJAYAPUR-586 203.
6. THE CHIEF EXECUTIVE OFFICER,
KARNATAKA STATE BOARD OF AUQUF
NO.6, CUNNINGHAM ROAD, BENGALURU-52.

...RESPONDENTS

(BY SRI LIYAQUAT FAREED USTAD, ADVOCATE FOR R1,
SRI P.S. MALIPATIL, ADVOCATE FOR R6,
NOTICE TO R2 TO R5 IS DEFERRED)

THIS MFA IS FILED UNDER SECTION 83(9) OF
UNIFIED WAKQ MANAGEMENT EMPOWERMENT,
EFFICIENCY AND DEVELOPMENT ACT 1955, (AMENDED
ACT 2025), PRAYING TO ALLOW THE APPEAL AND SET



ASIDE THE ORDER DATED 14.01.2026 PASSED BY THE PRESIDING OFFICER, KARNATAKA WAKF TRIBUNAL, BELAGAVI AND V ADDL. DISTRICT AND SESSIONS JUDGE, BELAGAVI IN KWT/VJP/O.S NO.21/2022, ON I.A. NO.9 FILED UNDER ORDER 39 RULE 4 C.P.C AND CONSEQUENTLY SET ASIDE THE ORDER DATED 27.03.2023 PASSED ON I.A NO.1 FILED UNDER ORDER 39 RULE 1 AND 2 CPC IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

1. Even though the matter is posted for admission, with the consent of both parties, the matter is taken up for final disposal.

2. Heard the arguments of learned counsel for the appellants and also learned counsel for the respondent No.1.



3. The notice to respondents No.2 to 5 is deferred for the present, the respondent No.6 has appeared before this Court.

4. This appeal is filed by the appellants, who are defendants No.1 to 3 in the suit No.KWT/VJP/ O.S. No. 21/2022 on the file of Karnataka State Wakf Tribunal before the V Addl. District and Sessions Judge, Belagavi wherein as per the order dated 14.01.2026 (for short 'the Tribunal') the Tribunal has dismissed the application I.A. No.9 filed by the defendants No.1 to 7 under Order XXXIX Rule 4 of CPC and thereby the Tribunal has refused to vacate the injunction granted in the suit.

5. Being aggrieved by the said order, the defendants No.1 to 3 are before this Court in the present appeal.

6. The plaintiff has filed the suit before the Tribunal for the relief of injunction restraining the defendants from interfering with his peaceful possession



and administrative affairs of the Dargah Hazrat Syed Shah Abdul Hassan Quadri Dastageer Sani (Sunni).

7. The Tribunal has granted the exparte order of injunction and that is sought to be vacated by the defendants No.1 to 7 under I.A. No.9. The said application was rejected as per the impugned order.

8. The main contention of the defendants No.1 to 3 is that the plaintiff was appointed as Mutawalli of Dargha Hazarat Syed Shah Abdul Hassan Quadri Dastageer Sani (Sunni) as per order dated 04.07.2022 of the Karnataka State Waft Board, Bengaluru for the period of 3 years or until further orders, whichever is earlier. Therefore, the contention of the defendants No.1 to 3 is that the period of appointment of plaintiff as Mutawalli of Dargha Hazarat Syed Shah Abdul Hassan Quadri Dastageer Sani (Sunni) expired on 04.07.2025 and therefore, the plaintiff has no authority to file the suit and proceed with the proceedings in the suit.



9. However, the learned counsel for the plaintiff has filed the objection to the appeal in detail along with some documents, wherein it is clear that in the proceedings of the Karnataka State Waft Board, Bengaluru as per order dated 30.10.2025 extended the period of Mutawalli of Dargha Hazarat Syed Shah Abdul Hassan Quadri Dastageer Sani (Sunni) till 31.01.2026. The said documents stand not controverted by the defendants No.1 to 3.

10. Moreover, now the appellant has produced the memo along with Addendum dated 31.10.2025 issued by the Karnataka State Board of Auqaf along with letter dated 24.03.2026 of the District Waqf Office, Vijayapur District, wherein it is clarified that the Waqf Board granted automatic extensions and allowed the Mutawalli to perform his duties and operate accounts in accordance with law until 31.03.2026.

11. However, as per impugned order it is clear that the suit was filed by the plaintiff in the year 2022



and the impugned order was passed on 14.01.2026. Therefore, as per the order dated 30.10.2025 of the Karnataka State Board of Auqaf, the plaintiff was Mutawalli on the date on filing the suit as well as on the date of passing of the impugned order. Hence, the contention of the defendants that the plaintiff has no authority of being Mutawali, does not merit consideration on the facts and circumstances of the case. Therefore, at the very outset, the contention of the appellant that the impugned order is not sustainable in law, does not stand for consideration.

12. Further, the father of defendants No.1 to 3 along with the other 3 persons filed the suit in O.S. No.50/1990 for the relief of declaration of ownership over the suit Darga before the learned Civil Judge and JMFC Court, Basavana Bagewadi. The said suit was dismissed as per the judgment and decree dated 21.01.2002. The plaintiffs therein challenged the said judgment and decree before the Senior Civil Court



Judge, Basavana Bagewadi in R.A. No.154/2003 and the Appellate Court allowed the appeal and set aside the impugned judgment and decree of the trial Court and decreed the suit of the plaintiffs therein. Against the judgment and decree of the first appellate Court, the defendants Waqf Board filed the appeal before this Court in RSA No.2126/2005. The said appeal was allowed as per the judgment and decree dated 28.02.2020 and the judgment and decree of the First Appellate Court is set aside. Therefore, the judgment and decree of the trial Court is restored. Thereafter, the plaintiffs filed SLP before the Hon'ble Apex Court, which was dismissed as per the order dated 05.04.2021.

13. Hence, the suit filed by the father of the defendants No.1 to 3 along with other person stands dismissed. Moreover, RSA No.2126/2005 filed by the plaintiffs before this Court was dismissed as per the judgment and decree dated 02.08.2012.



14. On the other hand, as submitted by the learned counsel for the plaintiffs, this Court in the appeal in RSA 2076/2005 has observed that, 'the judgment in RSA No.2126/2025 does not operate as a binding precedent'.

15. Moreover, there is absolutely no ground made out by the appellants to show that the trial Court has exercised the discretion power in granting interim injunction arbitrara, capriciously or it is perverse and granted the injunction ignoring the settled principles of law regarding grant or refusal of interlocutory injunction.

16. It is relevant to refer to the decision of the Hon'ble Apex Court in the case of **Ramakant Ambalal Choksi v. Harish Ambalal Choksi and others** in which referring to Order XLIII Rule 1 of CPC, it is held that:

"To examine whether the discretion has been properly exercised by the trial Court and whether such discretion



exercised is not arbitrary, capricious or contrary to the principle of law”.

17. As discussed herein above in the case on hand, there is absolutely no material forthcoming from the appellants to show that the trial Court has committed any error. There is also no material to show that the Tribunal exercised discretionary power capriciously or perversely. Hence, it is clear that there is no error committed by the trial Court in granting injunction in favour of the respondents and against the appellants, who are defendants No.1 to 3 before the trial Court.

In view of the order of Hon’ble Apex Court in SLP, the suit filed by the father of the defendants No.1 to 3 along with others attended finality and the said suit stands dismissed. Hence, the contention of the defendants No.1 to 3 that the Tribunal has committed error in granting injunction and thereafter in refusing to



vacate the interim injunction as per the impugned order, does not merit consideration.

From the discussions made herein above, it would be clear that the defendants No.1 to 3 have failed to make out any ground to show that the Tribunal has granted injunction exercising discretionary power by the Tribunal is capricious, perverse and without properly exercising discretionary power. Hence, any of the grounds urged by the defendants No.1 to 3 in the appeal on hand, does not merit consideration on the facts and circumstances of the case and therefore, this appeal fails.

In the result, this appeal filed by the appellants/ defendants No.1 to 3 is ***dismissed***.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

LL
List No.: 2 Sl No.: 1
CT: SB