

(2021) 06 KAR CK 0003

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 1857 Of 2021 (CPC)

Glocal Healthcare Systems Pvt Ltd

APPELLANT

Vs

Major Paresh Singhal(Retd) & Others

RESPONDENT

Date of Decision : 01-06-2021

Acts Referred:

Code Of Civil Procedure, 1908 — Section 94, 151

Code Of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2, Order 39 Rule 3, Order 39 Rule 10

Citation : (2021) 06 KAR CK 0003

Hon'ble Judges : S.R. Krishna Kumar, J

Bench : Single Bench

Advocate : Udaya Holla, Chinthan Chinnappa, M.V. Chandrashekhara Reddy

Final Decision : Allowed

Judgement

S.R. Krishna Kumar, J

1. This appeal by the defendant No.1 in the suit in O.S.No.25519/2021 filed by the respondent No.1 - plaintiff on the file of LXXII Addl.City Civil and

Sessions Judge, Mayo Hall Unit, Bengaluru (for short 'the trial court'), is directed against the impugned order dated 30.03.2021 passed by the trial

court on I.A.1/2021 filed by respondent No.1 - plaintiff under Order 39 Rules 1, 2 and 10 r/w Sections 94 and 151 CPC; by the impugned order, the

trial court directed all parties to maintain status-quo in respect of the suit schedule properties.

2. Heard Sri.Udaya Holla, learned Senior counsel appearing on behalf of Sri.Lomesh Kiran for the appellant and Sri.Chintan Chinnappa, learned

counsel for respondent No.1 and perused the material on record.

3. In addition to reiterating the various contentions urged in the memorandum of

appeal and the documents and citations relied upon by the appellant, learned senior counsel for the appellant submitted that apart from various serious infirmities contained in the impugned order, the ex-parte interim order of status-quo passed by the trial court is vitiated on account of being unreasoned, non-speaking and cryptic order which has been passed without any application of mind and in contravention of Order 39 Rule 3 CPC and as such, the impugned order deserves to be set aside on this ground alone.

In support of his contentions, reliance is placed on the following decisions:-

- (i) Shivkumar Chadha vs. MCD - (1993) 3 SCC 161;
- (ii) Jayaram & Anr. vs. Dr.Rajashekar & Others - MFA No.6227/2016 Dated 13.12.2019;
- (iii) Beau Jhelum Traders & Anr. vs. Ramesh K.R. & Others - MFA No.5034/2014 Dated 20.08.2014;
- (iv) Vendanth Fashions Pvt. Ltd., vs. Rajul Devi - (2014) SCC Online KAR 7191;
- (v) R.K.Jain vs. PG Chacko - (2013) SCC Online KAR 10168;
- (vi) Vemula Rajkumar vs. Sampath Kumar - CRP No.1044, 970 and 971/2020 Dated 28.12.2020;
- (vii) N.Ramaiah vs. S.Nagaraj - ILR 2001 KAR 3466;
- (viii) Smitha vs. Srinivas - MFA No.4890/2015 Dated 24.07.2015.
- (ix) Vice President vs. S.K.R Balakrishnan - (2000) SCC Online MAD 416;
- (x) Shashi Prakash Khemka vs. NEPC Micon - (2019) 18 SCC 569;
- (xi) Wilfred D'Souza vs. Lotus Shopping Centre - MFA No.2573/2015 Dated 18.06.2015.
- (xii) SAS Hospitality Pvt. Ltd., vs. Surya Constructions - (2018) SCC Online Del 11909;
- (xiii) Vikaram Jairath vs. Middleton Hotels Pvt. Ltd., - 2019 SCC Online Cal 6663;
- (xiv) Parenteral Drugs (India) Ltd., vs. Jagadish Mangal HUF & Others - (2020) 2 MPLJ 623;
- (xv) Chiranjeevi Rathnam vs. Ramesh - 2017 SCC Online Mad 23049;
- (xvi) Shankar Assana Gaddam vs. Achanak Associates Realtors Pvt. Ltd., - (2020) SCC Online Bom 1903;
- (xvii) Delhi & District Cricket Association vs. Sudhir Kumar Agarwal - 2020 SCC Online Del 1223;

- (xviii) Cotton Corporation of India Ltd., vs. United Industrial Bank Ltd., - (1993) 4 SCC 625;
- (xix) Shivkumar Chadha vs. Municipal Corporation of Delhi - (1993) 3 SCC 161;
- (xx) Patel Enterprises vs. M.P.Ahuja - ILR 1992 KAR 3772;
- (xxi) Bharath Coking Coal Ltd., vs. Indian Newspaper Society - (2011) 14 SCC 140;
- (xxii) P.Ranganathan vs. Sai Jagannathan - (1995) SCC Online Mad 341;
- (xxiii) Sajli Kishku vs. Talamoyee Kishku & Others - MANU/WB/2023/2019;
- (xxiv) Sky Travels vs. Hari Shankar Sharma - (2004) 2 CLJ (Cal) 239;

4. Per contra, learned counsel for respondent No.1 - plaintiff, in addition to supporting the impugned order passed by the trial court and referring to the citations produced by him, submits that the impugned order passed by the trial court directing all parties to maintain status-quo does not warrant interference by this Court in the present appeal and that the same is liable to be dismissed.

In support of his contentions, reliance is placed on the following decisions:-

- (i) Sm.Muktakesi Dawn & Others vs. Haripada Mazumdar & Anr. - AIR 1988 Cal 25;
- (ii) Bhasker Gayen & Others vs. Subhadit Mullick & Others - (2012) SCC Online Cal 2246;
- (iii) NEPC Micon Ltd., vs. Magma Leasing Ltd., & Anr. - (1999) SCC Online Cal 133;
- (iv) G.S.Prasanna Kumar vs. R.S.Shekarappa - MFA No.5998/2015 Dated 20.08.2015;
- (v) Prakash Roadlines vs. Vijayakumar Narang -(1995) 84 COMPCAS 782 (KAR);
- (vi) Jaikumar Arya vs. Chaya Devi - MANU/DE/3486/2017.

5. The material on record indicates that the application I.A.1/2021 filed by the respondent No.1 - plaintiff in the suit before the trial court is still pending consideration and that the same has not been disposed of so far. It is also seen that on 17.04.2021, the trial court extended the interim order of status- quo and posted the matter to 03.06.2021.

6. Though several contentions have been urged by both sides in respect of their respective claims, a perusal of the impugned order of status-quo passed by the trial court will clearly indicate that the same is a cryptic, bald,

laconic, unreasoned and non-speaking order which is bereft of any reasons and without any application of mind; further, the impugned order directing the parties to maintain status-quo in respect of the suit schedule properties also ignores the fact that in the plaint or the application I.A.1/2021 filed in the suit, no schedule of properties as required in law has been stated / described by the plaintiff so as to enable passing of an order in respect of suit schedule properties; the impugned ex-parte order of status-quo passed by the trial court is contrary not only to Order 39 Rule 3 CPC but also to the decisions of the Apex Court and this Court referred to supra and consequently, the impugned order deserves to be set aside on this ground alone. Further, having regard to the facts and circumstances of the instant case, the decisions relied upon by the respondent No.1 - plaintiff which were rendered in the peculiar facts and circumstances obtaining in the said cases are not applicable to the case on hand.

7. In view of the aforesaid facts and circumstances, in particular the undisputed fact that the impugned order arises out of I.A.1/2021 which is still pending consideration before the trial court, without expressing any opinion on the merits / demerits of the rival contentions, I deem it just and appropriate to set aside the impugned order and direct the trial court to consider and dispose of the application I.A.1/2021 filed by the respondent No.1 - plaintiff in accordance with law as expeditiously as possible within a stipulated timeframe.

8. In the result, I pass the following:-

ORDER

(i) Appeal is hereby allowed.

(ii) The impugned order of status-quo dated 30.03.2021 passed by the trial court on I.A.1/2021 filed by the respondent No.1 - plaintiff in

O.S.No.25519/2021 as well as the subsequent order dated 17.04.2021 passed by the trial court extending the earlier interim order of status-quo are hereby set aside.

(iii) The trial court is directed to consider and dispose of I.A.1/2021 filed by the respondent No.1 - plaintiff on merits and in accordance with law as expeditiously as possible and at any rate, on or before 17.06.2021.

(iv) No opinion is expressed on the merits / demerits of the rival contentions and

the same are hereby kept / left open to be decided by the trial court
without being influenced by the observations / findings recorded in the impugned
order.