

(2026) 08 KAR CK 2229

In the Karnataka High Court, Bengaluru Bench

Case No : WRIT PETITION NO.19992/2022 (GM-CPC)

Sri. R. Kempaiah

APPELLANT

Vs

Smt. Susheelamma

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Constitution of India — Article 227

Code of Civil Procedure, 1908 — Order XXXIX Rules 1, XXXIX Rules 2, Section 151

Citation : (2026) 08 KAR CK 2229

Hon'ble Judges : Vijaykumar A. Patil, J

Bench : Single Bench

Advocate : SRI. DHARMESH A, SRI. GIREESHA S.N.

Final Decision : Allowed

Judgement

This petition is filed challenging the order dated 12.07.2022 passed in MA.No.7/2022 by the Additional Senior Civil Judge and JMFC, T. Narasipura (for short 'the Appellate Court').

2. Heard Sri.Dharmesh A., learned counsel appearing for the petitioner, Sri.Gireesha S.N., learned counsel appearing for the respondent and meticulously perused the material available on record.

3. The petitioner filed a suit in OS.No.212/2018 against the respondent seeking permanent injunction restraining the respondent, her servants, agents or any person claiming through or under her from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. The suit schedule property is shown in the plaint as a wet land measuring 39 guntas in Sy.No.640, situated at Sosale Village, Sosale Hobli, T. Narasipura Taluk with *chakbandi*. The respondent/defendant filed a detailed written statement denying the averments made in the plaint. In the said suit, the petitioner/plaintiff filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC'), seeking temporary injunction against

the defendant, restraining the defendant from interfering with the plaintiff's possession of the suit schedule property pending disposal of the suit. The trial Court, vide order dated 26.11.2021 recorded a finding that the plaintiff had made out the prima facie case, allowed the application and granted an order of temporary injunction. Being aggrieved, the defendant preferred MA.No.7/2022 before the Appellate Court. The Appellate Court, vide order dated 12.07.2022 allowed the appeal by recording the reasons that the boundaries mentioned in the plaint schedule and in the sale deed relied by the plaintiff dated 07.02.2001 are completely different, which is under challenge in the present petition.

4. It is required to be noticed that this Court, vide order dated 17.11.2022, considered the contentions advanced, restrained the defendant from interfering with the plaintiff's possession and enjoyment over the suit schedule property till the next date of hearing and the said interim order has been continued till this day.

5. The Appellate Court allowed the appeal mainly on the ground that there is a discrepancy in the boundaries referred to in the suit schedule property of the plaint and the sale deed dated 07.02.2001. However, the material placed on record by the plaintiff indicates that the property claimed by the plaintiff is in Sy.No.640, measuring 39 guntas, whereas the property claimed by the defendants is in Sy.No.638/1A, 1B. The plaintiff has produced the registered sale deed dated 07.02.2001, the rectification deed dated 05.09.2018 and all the revenue records are standing in the name of plaintiff. In these circumstances, I am of the considered view that the plaintiff has made out the prima facie case for grant of temporary injunction, which has been rightly appreciated by the trial Court while granting the temporary injunction. The Appellate Court, without any justifiable reason, erred in reversing the order of the trial Court. Accordingly, I proceed to pass the following:

ORDER

- i. The writ petition is **allowed**.
- ii. The impugned order dated 12.07.2022 passed in MA.No.7/2022 by the Additional Senior Civil Judge and JMFC, T. Narasipura is hereby set aside.
- iii. The temporary injunction granted by the trial Court vide order dated 26.11.2021 shall be in force till the disposal of the suit.