

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 27<sup>TH</sup> DAY OF MAY, 2024****BEFORE****THE HON'BLE MR JUSTICE M.I.ARUN****WRIT PETITION NO.8436 OF 2024 (GM-CPC)****BETWEEN:**

1. SRI K.S.R. RAMANATHAN  
S/O. K.S. RAMALINGAM  
AGED ABOUT 54 YEARS  
R/AT NO.37/18  
KESARIMANGALAM (PO)  
BHAVANI TALUK - 638 001  
ERODE DISTRICT,  
TAMIL NADU.
2. SRI G. SUKUMAR  
S/O G. GOVINDARAJAN  
AGED ABOUT 49 YEARS  
R/AT NO.66, U R. NAGAR EXTENSION  
CHENNAI - 600 101.

...PETITIONERS

(BY SRI ANUP HARANA HALLI, ADVOCATE FOR  
SRI YESHU BABA R. MISHRA, ADVOCATE)**AND:**

1. SRI GANAGALAH  
S/O KADIRAPPA  
AGED ABOUT 73 YEARS,
2. SRI NARAYANASWAMY  
S/O GANAGIAH  
AGED ABOUT 50 YEARS,





3. SRI NAGARAJU  
S/O GANAGIAH  
AGED ABOUT 48 YEARS,
4. SRI MANJUNATHA  
S/O GANAGIAH  
AGED ABOUT 46 YEARS,
5. SRI NARASIMHA MURTHY  
S/O GANAGIAH  
AGED ABOUT 44 YEARS,
6. SRI MUNIRAJU  
S/O GANAGIAH  
AGED ABOUT 40 YEARS,

RESPONDENT NOS.1 TO 6 ARE  
RESIDING AT MEESIGANAHALLI VILLAGE  
JALA HOBLI, BANGALORE NORTH TALUK  
BANGALORE DISTRICT-562 149.

7. SRI DR. K. JAYACHANDRA  
S/O VENKATARAMANA RAJU  
AGED ABOUT 48 YEARS  
R/AT 615, 2ND, A CROSS  
2ND BLOCK, KALYAN NAGAR  
BANGALORE-560 013.
8. SRI C. VENKATACHALAPTHI  
S/O LATE CHINNAPPA  
AGED ABOUT 55 YEARS  
R/AT NO.228/1, 3RD MAIN  
OMBR LAYOUT, CHIKKABASAVANAGUDI  
BANGALORE-560 043.

...RESPONDENTS

(BY SRI Y.R. SADASHIVA REDDY, SENIOR COUNSEL  
FOR SRI RAHUL S. REDDY, ADVOCATE FOR R2 TO R6 & R8.)



THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI AND QUASH THE ORDER DATED 23.01.2024 PASSED BY THE III ADDITIONAL SENIOR CIVIL JUDGE, DEVANAHALLI IN O.S.NO.53/2024 ON I.A.NO.1 IN SO FAR IT RELATES TO REFUSAL TO GRANT EX-PARTE AD INTERIM INJUNCTION (VIDE ANNEXURE-A), ETC.

THIS PETITION COMING ON FOR ORDERS, THROUGH PHYSICAL HEARING/VIDEO CONFERENCING THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

1. The petitioners herein are the plaintiffs in O.S.No.53/2024 pending on the file of the III Additional Senior Civil Judge and JMFC, Devanahalli. The plaintiffs on the ground that respondent Nos.1 to 7 herein had agreed to sell the suit schedule 'B' property in favour of the plaintiffs herein filed O.S.No.53/2024 with the following prayers:

*"Wherefore, the plaintiffs respectfully prays that this Hon'ble Court may be pleased to pass a Judgment & Decree in favour of the plaintiffs against the defendants in the following terms:*

*a) To grant a decree of Specific Performance by directing the defendants to execute a sale deed in favor of the Plaintiffs in respect of the schedule 'B' property in terms of the*



*agreement to sell dated 10.08.2011 and Confirmation of Sale agreement dated 19.08.2023 on receipt of balance sale consideration of Rs.7,00,000/- in case the defendants fail to do so this Hon'ble Court may kindly be pleased to execute the sale deed*

*b) To direct the Defendants to handover vacant possession of Schedule 'B' Properties;*

*c) Declare that the "Cancellation of Joint Development Agreement" dated 21.12.2022 is not binding on the Plaintiffs.*

*d) Consequently, grant an order of Permanent Injunction restraining the Defendants, their men, agents, henchmen, or anyone claiming through or under them in any way creating third party interest or alienating by way of sale, lease gift, mortgage or in any other manner encumbering the Schedule 'B' Property or any portion of the same thereof in any manner whatsoever*

*e) To Grant such other relief/s as this Hon'ble Court may deem fit to grant in the facts and circumstances of the case."*



2. Along with the said plaint, the petitioners have also filed an interlocutory application under Order XXXIX Rule 1 and 2 read with Section 151 of CPC with the following prayer:

*"For the reasons sworn to in the accompanying Affidavit, the Plaintiffs above-named prays that this Hon'ble be pleased to grant an ad interim order of temporary injunction restraining the Defendants, their agents, henchmen or any one claiming under them from alienating encumbering or in any manner parting with the Suit Schedule 'B' Property pending disposal of the above suit."*

3. The trial Court came to the conclusion that it is appropriate to hear the defendants before passing any orders on the interlocutory application and accordingly, issued notice to the defendants. Aggrieved by the same and on the ground that the trial Court ought to have granted an ex parte interim order in favour of the plaintiffs in the original suit, the plaintiffs therein have preferred this writ petition.



4. During the course of the arguments both the learned counsel for the petitioners as well as learned counsel for respondent Nos.2 to 6 and 8 submit that respondent No.1 is no more and respondent No.7 is an under trial prisoner in a criminal case. Learned counsel for the petitioners is not in a position to dispute the same. They further submit that respondent Nos.1 to 6 have alienated the suit schedule property in favour of respondent No.8 and respondent No.8 is presently in possession of the property and he has further formed sites on the property concerned and has alienated a portion of it in favour of third parties.

5. Under the circumstances, the suit having been filed for specific performance of the contract wherein respondent Nos.2 to 7 are required to execute the sale deed in favour of the petitioners herein and for the reason that the property has been already alienated in favor of respondent No.8 herein and a few other third parties, I do not find any reason to interfere in the order passed by the trial Court wherein it has come to the conclusion that an



interlocutory application can be passed only upon hearing the parties.

6. For the aforementioned reason, the writ petition is hereby ***dismissed***. However, it is hereby clarified that the trial Court shall decide the interlocutory application based on the materials placed before it without being influenced by the order of this Court.

7. Pending I.A.'s if any, stand disposed of.

**Sd/-  
JUDGE**

VMC  
List No.: 2 SI No.: 4