IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2015

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

M.F.A.No.2495/2012

BETWEEN

SRI KEMPANARAYANAPPA
S/O LATE KEMPAIAH
AGED ABOUT 63 YEARS
R/AT NELAKADARANAHALLI VILLAGE,
YESHWANTHAPURA HOBLI
BANGALORE NORTH TALUK ...APPELLANT

(By Sri.P.M.SIDDAMALLAPPA, ADV. FOR MYLARAIAH ASSOCIATES - ABSENT)

AND

1. SRI M.D.SHETTY
   S/O SRI K.DEJU SHETTY
   MAJOR
   R/AT NO 54, DHARMAL PRODUCTS,
   PEENYA I STAGE, BANGALORE

2. THE CITY MUNICIPAL COUNCIL,
   DASARAHALLI
   BANGALORE
   REP BY ITS COMMISSIONER ... RESPONDENTS

(By Sri.RAJARAM GAONKAR, ADV. FOR
Sri G.R.ANANTHARAM, ADV. FOR C/R1)

THIS MFA FILED U/O 43 RULE 1(r) OF CPC, AGAINST THE ORDER DT.07.01.2012 PASSED ON I.A.NO.2 IN O.S.NO.2343/2007 ON THE FILE OF THE IX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE, DISMISSING

THIS APPEAL COMING ON FOR FINAL HEARING, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

1. In this appeal, appellant is challenging the dismissal of his application filed under Order XXXIX Rules 1 & 2 CPC seeking an order of temporary injunction to restrain the defendants from putting up construction over any portion of the schedule property during the pendency of the suit.

2. The application filed by the plaintiff has been dismissed way back on 07.01.2012. Nearly 3 years 10 months have passed from the date of rejection of the application. Appellant has neither moved the matter before this Court nor argued it for admission. For the first time the matter is coming up for admission today.

3. Counsel for the appellant is not present. Counsel for the respondent is present.

4. Appellant seems to have lost interest in prosecuting this appeal probably because his application seeking temporary

injunction was dismissed long back on 07.01.2012 and so far there is no protection given in favour of the plaintiff-appellant. Hence, this appeal is dismissed for non-prosecution.

Sd/-
JUDGE

KK