

Sri. Kantharaju vs M/S Pavan Machine Tools and Services

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Court : Karnataka Orders

Decided On : Apr-25-2024

Judge : S.R.Krishna Kumar

Appeal No. : WP/6991/2024

Appellant : Sri. Kantharaju

Respondent : M/S Pavan Machine Tools and Services

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2024 BEFORE THE HON'BLE
MR JUSTICE S.R.KRISHNA KUMAR WRIT PETITION NO. 6991 OF
2024 (GM-CPC) BETWEEN:

1. SRI. KANTHARAJU S/O LATE T BYLAPPA, AGED ABOUT 52
YEARS, R/AT NIDUVANDA VILLAGE, SOMPURA HOBLI,
NELAMANGALA TALUK, BENGALURU RURAL DISTRICT - 562111.
2. SMT DEVARATHNAMMA

D/O LATE T BYALAPPA, W/O KESHAVAMURTHY AGED ABOUT 54 YEARS, R/AT SHANTHIANGARA, 9TH CROSS, DODDABALLAPURA TOWN, BENGALURU RURAL DISTRICT - 561 203. PETITIONERS (BY SRI. NITISH.K.N.,ADVOCATE) AND: M/S PAVAN MACHINE TOOLS AND SERVICES Digitally signed by

LEELAVATHI S R

NO. 71, 72/717, 3RD CROSS, BFW LAYOUT, 1

KARNATAKA REPRESENTED BY ITS PARTNER, J K PRECION INDUSTRIES, SRI K B JAGADEESH. RESPONDENT (BY SRI. RAVISHANKAR.A.,ADVOCATE) THIS W.P IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION

OF INDIA PRAYING TO QUASHING THE EXPARTE AD-INTERIM ORDER

DTD 09.01.2024 PASSED IN OS.NO.15/2024 BY THE LEARNED IVTH ADDL.CIVIL JUDGE AND JFMC AT NELAMANGALA AT ANNEXURE-E ON IA.NO.1 AT ANNEXURE-C & ETC., THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING: -2-

ORDER

In this petition, petitioners have sought for the following reliefs:- A) To issue writ in the nature of Certiorari or any

other writ or direction, quashing the exparte ad-interim order

dated: 09.01.2024 passed in O.S.No.15/2024 by the learned IV Addl. Civil Judge and JMFC at Nelamangala at Annexure- E on I.A.No.1 at Annexure - C, B) Issue a writ of Mandamus or any other writ or direction, directing the learned IV Addl. Civil Judge and JMFC at Nelamangala to dispose of the I.A.No.1 at Annexure-C within time frame. C) Grant such other further reliefs as this Honble Court deems to be fit in the circumstances of the case in the interest of justice and equity.

2. Learned counsel for both sides jointly submit that the trial

court before whom I.A.1 is posted for hearing on 27.04.2024, may be directed to dispose of the application within a period of 30 days as contemplated under Order 39 Rule 3A CPC. It is further jointly submitted that any construction put up by the respondent - plaintiff on the suit schedule property from today onwards till disposal of I.A.1 shall be subject to the final outcome of I.A.1 and the respondent - plaintiff will not claim any equity in this regard. -3-

3. In view of the aforesaid facts and circumstances, I deem

it just and appropriate to dispose of this petition directing the trial court to dispose of I.A.1 within a period of 30 days from 27.04.2024 (subject to the learned Presiding Officer being transferred) and in accordance with Order 39 Rule 3A CPC. It is further directed that any construction put up by the respondent - plaintiff on the suit schedule property from today till disposal of I.A.1 by the trial court, shall be subject to final outcome of I.A.1 and the respondent - plaintiff shall not claim any equity in this regard. All rival contentions between the parties are kept open and no opinion is expressed on the same.

4. Subject to the aforesaid directions, petition stands disposed of. Sd/- JUDGE Srl.

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