



CNR: KAHC010157392026

NC: 2026:KHC:37920
WP No. 6857 of 2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.6857 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. JAWAHAR GOPAL
SON OF LATE GOPAL RAMANARAYAN,
AGED ABOUT 67 YEARS,
RAMKRUPA, 6TH MAIN ROAD,
GANDHINAGAR,
BANGALORE - 560 009
2. SMT. SHEELA GOPAL
WIFE OF GOPAL RAMANARAYAN,
AGED ABOUT 88 YEARS,
RAMKRUPA, 6TH MAIN ROAD,
GANDHINAGAR,
BANGALORE - 560 009

REPRESENTED BY GPA HOLDER,
MR. JAWAHAR GOPAL,
AGED ABOUT 68 YEARS,

SENIOR CITIZEN BENEFITS NOT CLAIMED BY
BOTH PETITIONERS,
AT NO.21, 3RD FLOOR,
RAMAKRIPA, BENSON CROSS,
OPPOSITE MILLERS ROAD,
BENSON TOWN,
BENGALURU - 560 046

...PETITIONERS

(BY SRI. DHANANJAY JOSHI, SENIOR COUNSEL FOR
SRI. VACHAN H U., ADVOCATE)





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AND:

SRI. VISHAL BALIGA D
SON OF DINESH BALIGA,
AGED ABOUT 34 YEARS,
RESIDING AT NO.56/3,
MADHURI, BOREWELL ROAD,
BANGALORE NORTH, WHITEFIELD,
BANGALORE - 560 006

...RESPONDENT

(BY SRI. D.R.RAVISHANKAR, SENIOR COUNSEL FOR
SMT. SWAMINI GANESH MOHANAMBAL, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE
ORDER DATED 26.02.2026 IN SUIT OS NO.1708 OF 2024
PASSED BY THE HON'BLE II ADDITIONAL SENIOR CIVIL JUDGE
AND JMFC, BANGALORE RURAL DISTRICT AT ANEKAL
ALLOWING I.A NO.VIII FILED BY THE RESPONDENT UNDER
SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908
SEEKING DIRECTION TO THE WHITEFIELD POLICE TO ASSIST
THE RESPONDENT IN IMPLEMENTING THE INJUNCTION ORDER
PASSED BY THE TRIAL COURT (ANNEXURE-A) AND ETC

THIS WRIT PETITION HAVING BEEN HEARD AND
RESERVED ON 17.07.2026, COMING ON FOR
PRONOUNCEMENT OF ORDER THIS DAY, THE COURT
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



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CAV ORDER

The present writ petition is filed being aggrieved by the order dated 26.02.2026 passed on I.A.No.VIII in O.S.No.1708/2024 by the II Additional Senior Civil Judge and JMFC, Anekal, the petitioners/defendants are before this Court.

2. I.A. No.VIII was filed by the plaintiff under Section 151 of the Code of Civil Procedure (hereinafter referred to as 'CPC') praying for directions to the Station House Officer (SHO) of Whitefield Police Station to assist the plaintiff in implementing the injunction order passed by the trial Court on I.A.Nos.I and II, which were subsequently affirmed by the Hon'ble Supreme Court.

3. The trial Court, by the impugned order, allowed the application. While allowing the application, the trial Court observed that the plaintiff, along with the application, produced photographs disclosing that unauthorized persons had entered the plaint 'B' schedule property and manhandled the plaintiff and his family members. In the said photographs, it is seen that the police also joined those elements. In many pictures, police are seen moving inside the suit schedule property along



with them. The trial Court clearly held that the plaintiff is in possession of the 'B' schedule property and that the defendants tried to encroach upon it. The learned counsel for the defendants repeatedly submitted that the defendants are in possession of the suit 'B' schedule property. This submission is contrary to the clear findings of the Court. The learned counsel further argued that the instant application is hit by the principles of *res judicata*. However, the instant application is filed for the implementation of an existing judicial order. If Court orders are not implemented, the Court can direct the jurisdictional police to ensure implementation. The trial Court, while passing orders on I.A. Nos.I and II, made clear observations regarding the police report, the conduct of the police, and the illegal acts of the defendants and their goonda elements. The trial Court noted that the defendants, without respecting the rule of law or the orders of the Court, are repeatedly interfering, and their behaviour is not condonable. The points urged by the counsel for the defendants in his arguments have no force and holds no water. Orders of the Court cannot merely remain on paper; it is the duty of the



Court to enforce them. Consequently, the trial Court issued directions to the SHO of Whitefield Police Station to implement the orders passed on 02.06.2025, to remove any obstruction placed by the defendants in the plaint 'B' schedule property and held that the office is directed to issue further directions to the SHO. If SHO failed to implement the orders, strict and stringent actions will be recommended.

4. When the matter came up for preliminary hearing before a Co-ordinate bench of this Court on 27.02.2026, emergent notice was issued to the respondent, returnable by 02.04.2026. The parties were directed to maintain *status quo* in relation to the petition schedule 'A' and 'B' properties, with liberty reserved to the respondent to seek vacation or modification of the order.

5. Learned Senior Counsel representing the learned counsel for the petitioners/defendants submits that the plaintiff had previously sought police protection and had also approached this Court by filing a writ petition. It is argued that in light of the two earlier petitions seeking police protection, the present application is barred by *res judicata*, and the trial Court



had failed to consider the same. It is further argued that the defendant is in actual possession of the property, and police aid cannot be utilized as a means to dispossess him or deliver possession to the plaintiff. The learned Senior counsel contends that if the plaintiff alleges dispossession, the only remedy available is to institute a suit under Section 6 of the Specific Relief Act, 1963, rather than invoking police machinery. It is submitted that the plaintiff's grandmother purchased the suit Schedule 'B' property, measuring 2 acres 6 guntas in Sy.No.56/3, Nelluruhalli, K.R.Pura Hobli, Bengaluru South Taluk and executed an Agreement of Sale dated 19.01.1995 to sell the property to defendant No.2 by executing a General Power of Attorney in his favour. The plaintiff's father and mother signed as witnesses in the General Power of Attorney. The plaintiff's uncle had filed O.S.No.10195/1995 contending that the said property was a joint family property and that his mother had no authority to sell it. The plaintiff's grandmother, as well as the plaintiff's father, filed their respective written statements stating that the said property was an absolute property and she was entitled to deal with it.



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6. It is submitted that on 25.06.2012, the trial court decreed the suit O.S.No.10195/1995, holding that the property was a joint family property and each of the three children of Smt.Sharada Baliga, including the plaintiff's father, had a share in it. Aggrieved by the said order, defendant No.2, along with his brother, filed RFA No.1664/2012 to set aside the judgment in O.S.No.10195/1995. The RFA judgment and decree was passed on 16.04.2024, setting aside the judgment in O.S.No.10195/1995. It is stated that the said matter was carried up to the Hon'ble Supreme Court, and the Hon'ble Supreme Court dismissed SLP(C) No.17347/2024 filed by the plaintiff's father seeking to challenge the order passed in the RFA. It is the case that when defendant No.2 deployed men and material to clean up the said property, to provide a wider gate, and to erect a fence around the said property, the plaintiff and his family members sought to interfere with the defendants' possession and prevented the erection of the fence around the property. Then, complaints were lodged by both of them. The plaintiff's father has filed W.P.No.33134/2024 seeking



directions to the police to evict the defendants from the property.

7. It is submitted that, suppressing all these facts, the plaintiff filed the present suit O.S.No.1708/2024, claiming that his grandmother, Smt.Sharada Baliga, had left an unregistered Will dated 10.01.1994 bequeathing the property to him, and for seeking a declaration that he is the owner of the said property. Though the said property is situated in Bangalore, that is, outside the territorial jurisdiction of the District Court, Anekal, the plaintiff filed the suit at Anekal, contending that the property was intended to be purchased by his grandmother. On 19.12.2024, the plaintiff filed an I.A. for the grant of an order of temporary injunction and on the same day, the trial Court granted an ex-parte order restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule 'B' property. Then, on 10.01.2025, the plaintiff filed I.A.No.III seeking directions to the police to implement the order of temporary injunction dated 19.12.2024. The trial Court granted an order directing the police to visit the spot and implement the interim order dated



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19.12.2024. It is submitted that the police visited the said property and observed that the plaintiff was in possession of the property and was residing along with his wife and parents in a house located in the north-western corner of the said property, and that the rest of the said property is in the possession of the defendants. Accordingly, the police submitted the report to the trial Court.

8. It is submitted that the plaintiff filed W.P.No.10462/2025 seeking directions from the Court to provide police protection to implement the orders of the trial Court. The trial Court passed an order confirming the ex-parte order of temporary injunction granted in favour of the respondent herein. Then, the defendant carried this matter by filing MFA No.3947/2025. The Appellate Court refused to interfere with the trial Court's order and the appeal was dismissed by an order dated 11.07.2025. Then, the petitioner carried this to the Hon'ble Apex Court by filing SLP (C) No.20606/2025. But the Hon'ble Apex Court did not interfere with the order of the trial Court dated 01.08.2025; however, it directed the Court to expedite the hearing of the case.



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9. It is further submitted by the learned Senior Counsel that by virtue of this order, the Court has asked the police to put the plaintiff in possession of the property, which is contrary to settled law. It is submitted that even a trespasser in a settled possession cannot be evicted by the true owner except through due process of law. As the law protects possession itself and prohibits forcible self-help remedies, reliance is placed on the judgment of the Hon'ble Apex Court in the case of **Rame Gowda (Dead) by LRs Vs. M. Varadappa Naidu (Dead) by LRs and another**¹. He relied on paragraphs Nos.6 to 8, which read as follows:

"6. The law in India, as it has developed, accords with the jurisprudential thought as propounded by Salmond. In Midnapur Zamindary Co. Ltd. Vs. Kumar Naresh Narayan Roy and Ors. 1924 PC 144, Sir John Edge summed up the Indian law by stating that in India persons are not permitted to take forcible possession; they must obtain such possession as they are entitled to through a Court.

7. The thought has prevailed incessantly, till date, the last and latest one in the chain of decisions being Ramesh Chand Ardawatiya Vs. Anil Panjwani (2003) 7 SCC 350. In-between, to quote a few out of several, in Lallu Yeshwant Singh (dead) by his legal representative Vs. Rao Jagdish Singh and others (1968) 2 SCR 203, this

¹ (2004) 1 SCC 769



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Court has held that a landlord did commit trespass when he forcibly entered his own land in the possession of a tenant whose tenancy has expired. The Court turned down the submission that under the general law applicable to a lessor and a lessee there was no rule or principle which made it obligatory for the lessor to resort to Court and obtain an order for possession before he could eject the lessee. The court quoted with approval the law as stated by a Full Bench of Allahabad High Court in Yar Mohammad Vs. Lakshmi Das (AIR 1959 All. 1,4),

"Law respects possession even if there is no title to support it. It will not permit any person to take the law in his own hands and to dispossess a person in actual possession without having recourse to a court. No person can be allowed to become a judge in his own cause."

In the oft- quoted case of Nair Service Society Ltd. Vs. K.C. Alexander and Ors. (1968) 3 SCR 163, this Court held that a person in possession of land in assumed character of owner and exercising peaceably the ordinary rights of ownership has a perfectly good title against all the world but the rightful owner. When the facts disclose no title in either party, possession alone decides. The court quoted Loft's maxim 'Possessio contra omnes valet praeter eur cui ius sit possession is (He that hath possession hath right against all but him that hath the very right)' and said,

"A defendant in such a case must show in himself or his predecessor a valid legal title, or probably a possession prior to the plaintiff's and thus be able to raise a presumption prior in time".

In M.C. Chockalingam and Ors. Vs. V. Manickavasagam and Ors. (1974) 1 SCC 48, this Court held that the law forbids forcible



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dispossession, even with the best of title. In Krishna Ram Mahale (dead) by his Lrs. Vs. Mrs. Shobha Venkat Rao (1989) 4 SCC 131, it was held that where a person is in settled possession of property, even on the assumption that he had no right to remain on the property, he cannot be dispossessed by the owner of the property except by recourse to law. In Nagar Palika, Jind Vs. Jagat Singh, Advocate (1995) 3 SCC 426, this Court held that disputed questions of title are to be decided by due process of law, but the peaceful possession is to be protected from the trespasser without regard to the question of the origin of the possession. When the defendant fails in proving his title to the suit land the plaintiff can succeed in securing a decree for possession on the basis of his prior possession against the defendant who has dispossessed him. Such a suit will be founded on the averment of previous possession of the plaintiff and dispossession by the defendant.

8. It is thus clear that so far as the Indian law is concerned the person in peaceful possession is entitled to retain his possession and in order to protect such possession he may even use reasonable force to keep out a trespasser. A rightful owner who has been wrongfully dispossessed of land may retake possession if he can do so peacefully and without the use of unreasonable force. If the trespasser is in settled possession of the property belonging to the rightful owner, the rightful owner shall have to take recourse to law; he cannot take the law in his own hands and evict the trespasser or interfere with his possession. The law will come to the aid of a person in peaceful and settled possession by injuncting even a rightful owner from using force or taking law in his own hands, and also by restoring him in possession even from the rightful owner (of course subject to the law of limitation), if the latter has



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dispossessed the prior possessor by use of force. In the absence of proof of better title, possession or prior peaceful settled possession is itself evidence of title. Law presumes the possession to go with the title unless rebutted. The owner of any property may prevent even by using reasonable force a trespasser from an attempted trespass, when it is in the process of being committed, or is of a flimsy character, or recurring, intermittent, stray or casual in nature, or has just been committed, while the rightful owner did not have enough time to have recourse to law. In the last of the cases, the possession of the trespasser, just entered into would not be called as one acquiesced to by the true owner."

10. He submits that in view of the earlier applications for police protection, the principle of *res judicata* applies, and in that regard, he relied on the judgment in the case of ***Citizen Aster Co-operative Housing Society Ltd and others Vs. Fredrick. J. D'Souza & others***². He relied on paragraphs 10 to 18, which read as follows:

"10. It is well settled principles of law that the principles of res judicata can be invoked not only in separate subsequent proceedings but it is also attracted at subsequent stage of the same proceedings, and once an order made in the course of a proceeding becomes final, it would be binding at the subsequent stage of the same proceeding. This is very clear from the ruling of the Apex Court in Y.B. Patil and Ors. v. Y.L. Patil, reported in A.I.R. 1977 S.C. 392. The Apex Court has also ruled

² (2005) 2 Bom CR 647



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in Prahlad Singh v. Col Sukhdev Singh, reported in A.I.R. 1987 S.C. 1145 that it is well settled that the decision given by a Court at an earlier stage of a case is binding at a later stage though interlocutory judgments are open for adjudication by an appellate authority in an appeal against the final judgment.

11. In the case in hand, undisputedly, the plaintiffs for their benefit and for other members of the proposed society which included the appellants herein had filed the application for temporary injunction which was dismissed by the lower Court by order dated 31st August, 2000 and no appeal was filed against the said order and therefore the same has attained finality for all purposes during the pendency of the suit. Undisputedly, while dismissing the said application for temporary injunction the trial Court had held that "at this stage it is very difficult to hold that defendant Nos. 1 to 3 are not at all authorised to sell the part of the suit land to the defendant No. 4". Apparently, therefore, the trial Court had dismissed the application holding that there was no material to disclose that the defendant Nos. 1 to 3 had no right to sell the part of the suit land to the defendant No. 4. The said finding for all purposes in the absence of an appeal against the said order had attained finality. However, it is sought to be contended on behalf of the appellants that while arriving at the said finding the trial Court had also observed that the said finding was "at this stage" thereby to mean that the said finding was arrived at on the basis of whatever materials which were available prior to the passing of the said order and the appellants have now produced some documents which disclose that the defendant Nos. 1 to 3 are not entitled to sell part of the suit land to the defendant No. 4.

12. As already observed above, the appellants cannot justify the claim solely on the basis of the alleged documents as no such



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plea was raised in the application itself and the plea in that regard has been sought to be raised only in the rejoinder. Secondly, even assuming that the said documents can be said to be relevant for the matter in issue, they were in existence much prior to the filing of the suit itself. One of the documents is an advertisement dated 24th October, 1992. Some are the letters dated 28th October, 1988 and 4th April, 1989, and the brochure dated 7th January, 1989 and power of Attorney dated 13th September, 1989, besides, some other documents which were already referred to in the earlier order. Once it is clear that all these documents relate to the date prior to the filing of the earlier application and there being no disclosure by the appellants as to the point of the when the appellants came to know about the said documents as well as the source of knowledge about the said documents, not only in the application for temporary injunction but even in the rejoinder itself, there can be no justification to grant any relief in the second application for temporary injunction based on such documents.

13. Besides, the rule of constructive res judicata will also be attracted in such cases and more particularly the one comprised under the Explanation IV to Section 11 of the Code of Civil Procedure which states that "any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit." In other words, any matter which might or ought to have been made a ground of attack in the former application shall be deemed to have been a matter directly and substantially in issue in such application and failure in that regard on the part of the plaintiffs in the earlier application would disentitle others for whose benefits representative suit is filed to reagitate the same issue in the form of second application for temporary injunction.



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14. The Apex Court in Forward Construction Co. and Ors. v. Prabhat Mandal (Regd.), Andheri and Ors., reported in A.I.R. 1986 S.C. 391 has held that "an adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have had it decided as incidental to or essentially connected with the subject-matter of the litigation and every matter coming within the legitimate purview of the ordinal action in both in respect of the matters of claim or defence. The principle underlying Explanation IV is that where the parties have had an opportunity of controverting a matter that should be taken to be the same thing as if the matter had been actually controverted and decided. It is true that where a matter has been constructively in use it cannot be said to have been actually heard and decided".

15. The Apex Court in Gulam Abbas and Ors. v. State of U.P. and Ors., reported in A.I.R. 1981 S.C. 2198 had clearly on the principle of res judicata ruled that "It is in the interest of the public at large that finality should attach to the binding decisions pronounced by courts of competent jurisdiction, and it is also in the public interest that individuals should not be vexed twice over with the same kind of litigation".

16. In Gulabchand Chhotalal Parikh v. State of Bombay, A.I.R. 1965 S.C. 1153 and in Union of India v. Nanak Singh, A.I.R. 1968 S.C. 1370, it was held that "it is thus clear that Technical aspects of Section 11 of C.P.C. as for instance, pecuniary or subject-wise competence of the earlier forum to adjudicate the subject-matter or grant reliefs sought in the subsequent litigation would be immaterial when the general doctrine of res judicata is to be invoked".

17. In Gulab Abbas's case (supra), it was held by the Apex Court that"..... the



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provisions of Section 11 of C.P.C. are not exhaustive with respect to an earlier decision operating as res judicata between the same parties on the same matter in controversy in a subsequent regular suit and that on the general principle of res judicata, any previous decision on a matter in controversy, decided after full contest or after affording fair opportunity to the parties to prove their case by a Court competent to decide it, will operate as res judicata in a subsequent regular suit."

18. Applying the law on the point of res judicata, and considering the fact that the application for temporary injunction filed by the appellants is on the same grounds which were disclosed in earlier application, and further that the application of the appellants, apart from making a bare claim of change in circumstances, does not disclose any change as such after disposal of the earlier application, the second application was liable to be dismissed and was rightly dismissed by the trial Court."

11. Then, for the proposition that police protection cannot be used as means to dispossess the parties in possession or to alter the nature of the suit property, he relied on a judgment in the case of **MR. Srinivas Adhikeshavulu Dalvoi Vs. Anushka Constructions Pvt. Ltd**³. He relied on paragraphs 7 and 8, which read as follows:

"7. The only grievance of the petitioner is that in the guise of implementing the injunction order passed by the Trial Court, the police are trying to dispossess the

³ W.P.No.4740/2025



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petitioner-defendant from the suit schedule properties.

8. In that view of the matter, this court is of the opinion that the only direction that can be issued at this stage is to direct the Inspector of Police, Kadugodi Police, not to dispossess the parties, who are in possession of the suit schedule properties and not to alter the nature of the suit schedule properties. Accordingly, the following order is passed:

ORDER

a) Writ petition is disposed of.

b) Inspector of Police, Kadugodi Police Station, shall ensure that the order dated 01.02.2025 passed by the Trial Court on I.A.No.3, be complied with. However, in the guise of implementing the said order, he shall not dispossess the parties, who are in possession of the suit schedule properties and shall not alter the nature of the suit schedule properties."

12. It is submitted that police protection is confined to ensuring compliance with the trial Court's order and cannot be used to aid either party in altering the suit property. He relied on the judgment passed in the case of ***M/s Godrej Properties Ltd. Vs. K. G. Anjaneya***⁴. He relied on paragraphs 5, 6, and 7, which read as follows:

"5. Insofar as the prayer sought in respect of I.A.No.IV is concerned, the application is filed under Section 151 of

⁴ W.P.No.6401/2026 dated 04.03.2026



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CPC seeking police protection. The apprehension of the defendant is that instead of merely implementing the order, the police are supporting the plaintiff in altering the nature of the suit schedule property.

6. Learned Senior Counsel appearing for the plaintiff- respondent submits that the police protection has been sought only to ensure that the order of the Trial Court passed on I.A.No.I is not violated by any party and that the plaintiff will not make any alteration to the nature of the property with the aid of the police.

7. In view of the above, no further orders are required to be passed on I.A.No.IV. However, it is clarified that the police shall extend protection only for the purpose of ensuring implementation of the Trial Court's order passed on I.A.No.I and shall not support either of the parties in making any alteration to the suit schedule property. In the event of any violation of the Trial Court's order, the police shall report the same to the concerned Court."

13. Relying on these judgments, it is submitted that the order passed by the Court is contrary to law and the same has to be set aside.

14. Sri. D.R Ravishankar, learned Senior counsel representing the learned counsel for the respondent, submits that when the defendant has suffered an order of injunction affirmed till the Hon'ble Supreme Court, the defendant cannot come before this Court claiming possession of the property. He



has drawn the Court's attention to the order passed by the trial Court. While passing the injunction, the Court observed the manner in which the police behaved. He has drawn the Court's attention to paragraph No.16 of the order, in which the trial Court observed that the video visuals clearly show that the defendants, with the help of goondas, trespassed into the plaint schedule 'B' property. The defendants also admitted that they entered into an agreement with Karnataka Soaps and Detergents Ltd., to cut and remove the trees in the plaint schedule 'B' property. In that, the Court observed that if an injunction is not granted, the plaintiff will be thrown out from the 'B' schedule property and the defendants will change the entire 'B' schedule property within no time. The acts of the defendants cannot be condoned, and the acts of the police should be viewed seriously. This is a classic case of illegal acts by police and goondas. If an injunction is not granted, the defendants will definitely dispossess the plaintiff from the suit schedule 'B' property and will cut and remove trees in the 'B' schedule property. The Court has also observed that if at all the defendants have any right, they have to take possession



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according to law; their behavior is not proper, and they cannot enter into the suit 'B' schedule property with the help of goondas, and the police visuals are shameful to the police department.

15. The learned Senior Counsel submits that when this order was carried in appeal in the MFA, this Court affirmed the findings. The learned Senior Counsel has drawn the Court's attention to the order in the MFA. This Court also considered the findings regarding the defendants' high-handed action. When the matter was taken further to the Hon'ble Apex Court, the Hon'ble Apex Court affirmed the order and refused to interfere with the orders passed by the Courts below. It is submitted that, in blatant violation of the orders passed by the trial Court, this Court and the Hon'ble Apex Court, the defendants, without any respect for the rule of law, in collusion and hand-in-glove with the police, are repeatedly acting and creating law-and-order problems. It is submitted that the respondent/plaintiff is left with no alternative, no order was passed by any of the Courts rejecting the plaintiff's case for police protection, and the principle of *res judicata* will not apply



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to the facts of the case. He relied on the judgment of the Telangana High Court in the case of **Gadeela Srinivas Reddy Vs. State of Telangana**⁵. He relied on paragraphs 27, 28, and 30, which read as follows:

"27. The stand that was taken by the unofficial respondents with regard to the structure being there in the schedule mentioned property is that much prior to filing of the suit way back in the year 2013 and about other documents in support of the State were negated by the Court below. It is submitted that the unofficial respondents have preferred C.M.A. and the same is pending. Though the judgment and decree dated 25.10.2019 passed in O.S. No. 11 of 2014, so far the appeal which was filed by the respondents has not seen the light of the day. On the face of it, it appears that having suffered several orders, the respondents/defendants were not vigilant in pursuing the matters. When an injunction is granted restraining them from interfering with the property, the very same defendant cannot come before this Court and submit that if at all they have violated the injunction orders, the remedy for plaintiff is to file an execution petition.

28. A party who has no respect to the rule of law, who has suffered the decree and still consistently filing petition one after the other, cannot afford to submit that remedy of the petitioner/plaintiff is elsewhere. In several judgments cited by the petitioner/plaintiff, it has been observed that the orders of the Courts have to be upheld at all times. In this manner, if litigant is permitted to take different stands and blow hot and cold at the same time, it would

⁵ W.P.No.271/2020 dated 30.06.2023



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be very difficult to maintain rule of law and impossible to implement the orders of the Court.

30. In the peculiar facts and circumstances of the case, where both the parties are before this Court by filing two kinds of writ petitions by questioning the action of the police, where the unofficial respondents have suffered decree, all the stands that were taken before this Court are already negated by the Court below and the decree happens to be of the year 2019, it is a fit case where the respondent police shall provide police protection in respect of the land admeasuring Ac.1-00 guntas in Survey No. 435/1 part, situated at Gundlapochampally Village, Medchal Malkajgiri District as per the judgment and decree in O.S. No. 11 of 2014 dated 29.10.2019."

16. Relying on the above judgment, it is submitted that unless and until police protection is granted, the order passed by the trial Court, which has been affirmed by the Hon'ble Apex Court, will become a paper order.

17. Having heard the learned Senior Counsel appearing on either sides, perused the material on record. It is not in dispute that an order of temporary injunction was granted. Allegations were made of interference and obstruction in the implementation of the temporary injunction. Earlier proceedings culminated in the trial Court's observations regarding the high-



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handed conduct of the police and the defendants. Those observations were not interfered in the appeal and were also affirmed by the Hon'ble Apex Court. The proceedings, as far as the grant of the interim injunction to the plaintiff are concerned, have attained finality. Judicial orders, once they attain finality, cannot be rendered meaningless by subsequent acts of obstruction. The authority of a judicial order does not depend upon the willingness of a litigant to obey it. Equally, it cannot be subjected to the convenience of the executive machinery. The rule of law requires that orders of courts must be implemented with the same seriousness with which they are pronounced.

18. The contention that the subsequent application is barred merely because an earlier application for police protection was filed, and that it operates as *res judicata*, is a submission this Court cannot accept. Police aid is not an independent substantive remedy capable of being exhausted by a single application; it is a procedural mechanism evolved by Courts to secure the effective implementation of an existing judicial order. Every fresh act of obstruction to an injunction



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constitutes a fresh cause requiring appropriate directions. Unless the injunction itself has ceased to operate or has been vacated, the Court retains complete jurisdiction to ensure its effective implementation. The doctrine of *res judicata* is founded on the principle that an issue finally adjudicated between the parties should not be reopened. The present application, however, does not invite the Court to re-adjudicate any issue already decided. It proceeds on the allegation that, notwithstanding the subsisting order of temporary injunction, fresh acts of obstruction have rendered the earlier directions ineffective. Every subsequent act of interference with the implementation of an injunction gives rise to a fresh cause for invoking the Court's ancillary jurisdiction. Unless the injunction itself has been vacated, modified, or set aside, the Court's power to secure its enforcement remains for the life of the injunction.

19. If the argument of the learned Senior Counsel for the petitioners is accepted, the inevitable consequence would be that once an application for police aid is disposed of, the successful party would be left remediless against all future acts



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of obstruction during the pendency of the injunction. Such an interpretation would enable an unscrupulous litigant to repeatedly violate the Court's order and thereafter shield himself behind the technical plea of *res judicata*. The doctrine intended to bring finality to adjudication cannot be converted into a weapon to perpetuate disobedience of judicial orders. The earlier proceedings, which culminated in observations regarding the high-handed conduct of the police, have attained finality upon the dismissal of the appeal as well as the SLP before the Hon'ble Supreme Court. Those proceedings neither extinguished the injunction nor exhausted the Court's incidental jurisdiction to secure its implementation. What has attained finality is the legality of the earlier proceedings. What survives is the continuing obligation of every person, including the executive authorities, to ensure obedience to the subsisting injunction. Consequently, the principle of *res judicata* has no application to the facts of the present case and the said submission is rejected.

20. The second contention by the Senior Counsel is that the defendants are in possession and that the police cannot be



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directed to place the plaintiff in possession. There can be no quarrel with the settled principle that police aid cannot be used as a substitute for the execution of a decree for possession, nor can the police be directed to adjudicate disputed questions of title or possession. However, that principle cannot be applied to the facts and circumstances of the present case, where the Court has already granted protection to the plaintiff's possession and the subsequent obstruction is found to violate the subsisting injunction. The Court is not helpless merely because the violator claims to have altered the factual situation by force. No litigant can be permitted to plead his own unlawful act as a defence against the implementation of a judicial order. If the Senior Counsel's submission is accepted, it would amount to recognizing a doctrine that a litigant who successfully violates an injunction acquires an advantage from his own contemptuous conduct and thereafter compels a successful party to institute fresh proceedings under Section 6 of the Specific Relief Act. Such a proposition would strike at the very foundation of judicial authority and the rule of law.



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21. Section 6 of the Specific Relief Act provides a summary remedy to a person dispossessed otherwise than in due course of law. The existence of this statutory remedy does not deprive the Court of its inherent and incidental jurisdiction to enforce its own orders. The remedy under Section 6 of the Specific Relief Act is an additional remedy available under the statute. It cannot be construed as an exclusive remedy that disables the Court from ensuring obedience to its own injunctions. The Court cannot remain a mute spectator while its orders are openly violated. Every Court possesses incidental and ancillary powers necessary to preserve the efficacy of its own orders. The power to direct police assistance is one such recognized power intended to ensure that judicial orders are not rendered incapable of implementation.

22. Equally unacceptable is the submission that the impugned order directs delivery of possession. A meaningful reading of the impugned order would show that the direction is intended to remove the obstruction created in violation of the injunction and to restore the efficacy of the judicial order. Such restoration cannot be equated with the adjudication of title or



the delivery of possession in the execution of a decree. The police are not called upon to decide competing claims. They are merely required to assist in implementing the Court's order.

23. The Court cannot overlook the practical realities confronting litigants. A litigant who secures an order after undergoing the rigours of judicial proceedings legitimately expects that such order will be implemented. If, despite obtaining orders from the trial Court, surviving appellate scrutiny, and even withstanding a challenge before the Hon'ble Supreme Court, the successful party is still left without enjoying the fruits of the order, the judicial process itself stands seriously compromised. Orders incapable of implementation become just paper declarations. The legitimacy of the judicial system depends not only upon the correctness of judicial pronouncements, but equally upon their enforceability. Public confidence in the administration of justice is sustained when judicial orders translate into practical reality. If a litigant begins to perceive that Court orders can be ignored with impunity until the successful party is driven into successive rounds of



litigation, the inevitable consequence would be the erosion of faith in the rule of law.

24. The judiciary commands neither the purse nor the sword. Its strength lies in the confidence the people place in the enforcement of its orders through the State's constitutional machinery. Looking at the earlier proceedings in which the conduct of the police authorities was adversely noted and those findings having attained finality before the Hon'ble Supreme Court, the learned trial Judge was fully justified in issuing appropriate directions to ensure that the subsisting order of injunction does not remain a paper order incapable of implementation.

25. The conduct of the petitioner throughout the proceedings deserves serious notice. After suffering a decree of permanent injunction, instead of abiding by the mandate of the Court, the defendant has chosen to obstruct its implementation by resorting to repeated acts of interference as recorded by the trial Court in the order. It is a clear abuse of the process of law. Hence, this is a fit case where costs have to be imposed.



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26. In the considered opinion of this Court, the trial Court had rightly considered the matter and has passed an order, and this Court finds no reason to interfere. Hence, this Court is passing the following order:

ORDER

- i. Accordingly, the writ petition is ***dismissed with costs of Rs. 50,000/-*** to be paid to the respondent.
- ii. All I.As. in this petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

PKN