

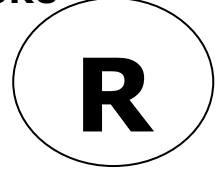


NC: 2025:KHC:24423  
MFA No. 366 of 2025  
C/W MFA No. 332 of 2025  
MFA No. 458 of 2025  
AND 1 OTHER

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7<sup>TH</sup> DAY OF JULY, 2025

BEFORE



THE HON'BLE MR. JUSTICE RAMACHANDRA D. HUDDAR

MISCELLANEOUS FIRST APPEAL NO. 366 OF 2025 (CPC)

C/W

MISCELLANEOUS FIRST APPEAL NO. 332 OF 2025

MISCELLANEOUS FIRST APPEAL NO. 458 OF 2025

MISCELLANEOUS FIRST APPEAL NO. 489 OF 2025

IN MFA No.366 OF 2025

BETWEEN:

1. MOHAMED UMAR SEENI ARIFF KHAN  
S/O LATE MOHAMED UMAR  
AGED ABOUT 71 YEARS
2. MRS. MUMTAJ SEENI ARIFF KHAN  
W/O MOHAMED UMAR SEENI ARIFF KHAN  
AGED ABOUT 64 YEARS

BOTH ARE R/AT FLAT NO.003  
GROUND FLOOR, SITE NO.524  
AAKARSHAN ASPIRE, 42<sup>ND</sup> MAIN  
IDEAL HOMES TOWNSHIP  
RAJARAJESHWARINAGAR  
BENGALURU-560 098

...APPELLANTS

(BY SRI. VARADARAJ RANGANATHA RAO HAVALDAR,  
ADVOCATE)





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**AND 1 OTHER**

**AND:**

MRS. TANZIA BANO ALIAS TANZIA BANU  
W/O LATE MR. IMRAN KHAN M.S  
AGED ABOUT 37 YEARS  
R/AT B-08, 'UNI WORTH TRANQUIL ROW HOUSES'  
DODDABELE ROAD, KENGERI  
BENGALURU-560 060  
REPRESENTED BY HER SPA HOLDER  
MR. WASEEM PASHA  
S/O WAHAB JAN  
RESIDING AT NO.1846, WARD NO.29  
MAGADI MAIN ROAD  
2<sup>ND</sup> MAIN, 4<sup>TH</sup> CROSS  
IJOOR, RAMANAGARA DISTRICT  
PIN-562 159

...RESPONDENT

(BY SRI. SIJI MALAYIL, ADVOCATE)

THIS MFA IS FILED U/O 43 RULE 1(r) R/W SECTION 151  
OF CPC, AGAINST THE ORDER DATED 16.10.2024 PASSED ON  
I.A.NO.2 IN OS.NO.7645/2023 ON THE FILE OF THE X  
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU  
SCCH-26, ALLOWING THE IA.NO.2 FILED UNDER ORDER 39  
RULE 1 AND 2 OF CPC.

**IN MFA No.332 OF 2025**

**BETWEEN:**

1. MOHAMED UMAR SEENI ARIFF KHAN  
S/O LATE MOHAMED UMAR  
AGED ABOUT 71 YEARS
2. MRS. MUMTAJ SEENI ARIFF KHAN  
W/O MOHAMED UMAR SEENI ARIFF KHAN  
AGED ABOUT 64 YEARS



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**AND 1 OTHER**

BOTH ARE R/AT FLAT NO.003  
GROUND FLOOR, SITE NO.524  
AAKARSHAN ASPIRE, 42<sup>ND</sup> MAIN  
IDEAL HOMES TOWNSHIP  
RAJARAJESHWARINAGAR  
BENGALURU-560 098

...APPELLANTS

(BY SRI. VARADARAJ RANGANATHA RAO HAVALDAR,  
ADVOCATE)

**AND:**

MRS. TANZIA BANO ALIAS TANZIA BANU  
W/O LATE MR. IMRAN KHAN M.S  
AGED ABOUT 37 YEARS  
R/AT B-08, "UNI WORTH TRANQUIL ROW HOUSES"  
DODDABELE ROAD, KENGERI  
BENGALURU-560 060  
REPRESENTED BY HER SPA HOLDER  
MR. WASEEM PASHA  
S/O WAHAB JAN  
RESIDING AT NO.1846, WARD NO.29  
MAGADI MAIN ROAD  
2<sup>ND</sup> MAIN, 4<sup>TH</sup> CROSS  
IJOOR, RAMANAGARA DISTRICT  
PIN-562 159

...RESPONDENT

(BY SRI. SIJI MALAYIL, ADVOCATE)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF THE  
CPC AGAINST THE ORDER DTD.16.10.2024 PASSED ON IA  
NO.1 IN O.S. NO.7645/2023 ON THE FILE OF THE X  
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU  
(CCH-26) ALLOWING IA NO.1 FILED U/O 39 RULE 1 AND 2 151  
OF CPC.



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**C/W MFA No. 332 of 2025**  
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**AND 1 OTHER**

**IN MFA No.458 OF 2025**

**BETWEEN:**

1. MOHAMED UMAR SEENI ARIFF KHAN  
S/O LATE MOHAMED UMAR  
AGED ABOUT 71 YEARS
2. MRS. MUMTAJ SEENI ARIFF KHAN  
W/O MOHAMED UMAR SEENI ARIFF KHAN  
AGED ABOUT 64 YEARS

BOTH ARE R/AT FLAT NO.003  
GROUND FLOOR, SITE NO.524  
AAKARSHAN ASPIRE, 42<sup>ND</sup> MAIN  
IDEAL HOMES TOWNSHIP  
RAJARAJESHWARINAGAR  
BENGALURU-560 098

...APPELLANTS

(BY SRI. VARADARAJ RANGANATHA RAO HAVALDAR,  
ADVOCATE)

**AND:**

MRS. TANZIA BANO ALIAS TANZIA BANU  
W/O LATE MR. IMRAN KHAN M.S  
AGED ABOUT 37 YEARS  
R/AT B-08, "UNI WORTH TRANQUIL ROW HOUSES"  
DODDABELE ROAD, KENGERI  
BENGALURU-560 060  
REPRESENTED BY HER SPA HOLDER  
MR. WASEEM PASHA  
S/O WAHAB JAN  
RESIDING AT NO.1846, WARD NO.29  
MAGADI MAIN ROAD  
2<sup>ND</sup> MAIN, 4<sup>TH</sup> CROSS



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**AND 1 OTHER**

IJOOR, RAMANAGARA DISTRICT  
PIN-562 159

...RESPONDENT

(BY SRI. SIJI MALAYIL, ADVOCATE)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF CPC AGAINST THE ORDER DATED 16.10.2024 PASSED ON I.A NO.4 IN O.S. NO.7645/2023 ON THE FILE OF THE X ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-26), REJECTING I.A. NO.4 FILED UNDER ORDER XXXIX RULE 4 OF CPC.

**IN MFA No.489 OF 2025**

**BETWEEN:**

1. MOHAMED UMAR SEENI ARIFF KHAN  
S/O LATE MOHAMED UMAR  
AGED ABOUT 71 YEARS
2. MRS. MUMTAJ SEENI ARIFF KHAN  
W/O MOHAMED UMAR SEENI ARIFF KHAN  
AGED ABOUT 64 YEARS

BOTH ARE R/AT FLAT NO.003  
GROUND FLOOR, SITE NO.524  
AAKARSHAN ASPIRE, 42<sup>ND</sup> MAIN  
IDEAL HOMES TOWNSHIP  
RAJARAJESHWARINAGAR  
BENGALURU-560 098

...APPELLANTS

(BY SRI. VARADARAJ RANGANATHA RAO HAVALDAR,  
ADVOCATE)

**AND:**

MRS. TANZIA BANO ALIAS TANZIA BANU  
W/O LATE MR. IMRAN KHAN M.S  
AGED ABOUT 37 YEARS



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**AND 1 OTHER**

R/AT B-08, 'UNI WORTH TRANQUIL ROW HOUSES'  
DODDABELE ROAD, KENGERI  
BENGALURU-560 060  
REPRESENTED BY HER SPA HOLDER  
MR. WASEEM PASHA  
S/O WAHAB JAN  
RESIDING AT NO.1846, WARD NO.29  
MAGADI MAIN ROAD  
2<sup>ND</sup> MAIN, 4<sup>TH</sup> CROSS  
IJOOR, RAMANAGARA DISTRICT  
PIN-562 159

...RESPONDENT

(BY SRI. SIJI MALAYIL, ADVOCATE)

THIS MFA IS FILED UNDER ORDER 43 RULE 1 (r) OF CPC,  
AGAINST THE ORDER DATED 16.10.2024 PASSED ON I.A. NO.6  
IN O.S. NO.7645/2023 ON THE FILE OF THE X ADDITIONAL  
CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-26),  
REJECTING I.A. NO.6 FILED UNDER ORDER XXXIX RULE 4  
READ OF CPC.

THESE MFAs HAVING BEEN RESERVED FOR JUDGMENT,  
COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT,  
DELIVERED/PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR



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### **CAV JUDGMENT**

(PER: HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR)

These four Misc. First Appeals are preferred independently by the defendants in the suit, assailing the legality and propriety of the common order dated 16.10.2024 passed by the X Addl. City Civil and Sessions Judge, Bengaluru, sitting at CCH No.26 on I.A.No.1, 2, 4 and 6 filed in OS No.7645/2023. By the impugned order, the trial Court allowed the applications filed by the plaintiff under Order 39 Rules 1 and 2 of CPC thereby, granted temporary injunction restraining the defendants from dispossessing the plaintiff or alienating or encumbering the suit B-schedule property and simultaneously dismissed the application filed by the defendants under Order 39 Rule 4 of CPC seeking to vacate the said injunctive order.

2. The factual matrix reveal that, the respondent herein by name Mrs. Tanzia Bano alias Tanzia Banu filed a suit for declaration, partition and injunction against the appellants, claiming to be the legally wedded wife of late



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Imran Khan M.S., the son of appellants/defendants. Plaintiffs' principal contention is that, she, during the subsistence of her marriage transferred substantial amounts both in Indian and US Currencies to her husband's account and those funds were subsequently utilized by the first defendant i.e her father-in-law to acquire the suit schedule property. She has further averred that, suit property was agreed to be purchased in the name of defendant no.1 merely as a matter of convenience, since the plaintiff and her husband were then residing abroad, with an assurance that, it would eventually be transferred back to them. It is also the categorical assertion of the plaintiff that, she has remained in possession of the suit schedule property even after demise of her husband on 20.6.2023 and that attempts are being made by the defendants to illegally dispossess her and to alienate the property.





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3. The appellants have disputed the marital status of the plaintiff with their deceased son and have categorically denied her claim over the property or her possession thereof. They contend that, the purchase of the property was made entirely from the funds of defendant no.1 and that the plaintiff at best had been permitted to temporarily stay in the property during the period of her husband's illness and had no legal or possessory right therein.

4. The learned trial Court has passed the impugned order which is challenged in these appeals by the defendants.

5. It is argued by the counsel for the appellants that, no such marriage has taken place in between their son Imran Khan and the plaintiff. It was defendant no.1 who contributed independently to purchase the suit property. According to the appellants, the learned Trial Court is not justified in dismissing the application filed by the defendants. In support of his submission, the learned



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counsel for the appellants relied upon the provisions Foreign Marriage Act, 1969 and submits that, no such marriage has been certified by the authority and mere production of document executed before the notary is not sufficient to prove the marital status. Learned counsel for the appellants relied upon the findings of the trial Court, so also the serious objections raised to the application filed by the defendants.

6. Per contra, the learned counsel for the respondent justified the reasons assigned by the trial Court and submits that, dispute started only after demise of her late husband Imran Khan. It was she and her husband sent the money both in Indian currency as well as US currency, that was utilized by the defendant no.1 to purchase the schedule property. According to the learned counsel for the respondent, the learned trial Court has given the well reasoned order and prays to dismiss the appeal.



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7. Having carefully examined the records and heard the learned counsel of both the side, I find that, the trial Court has meticulously considered the relevant aspects, particularly the nature of evidence produced at this interlocutory stage. Plaintiff has produced the marriage certificate executed in the US, extracts of joint bank account, exchange of *whatsapp* messages with her husband and defendants, photographs and various utility bills to substantiate not only her marital status with deceased Imran Khan but, also financial contributions towards purchase of suit property. Although the appellants have questioned the legality of marriage certificate under the Foreign Marriage Act, it is the settled position under law that, such a contention would be matter requiring adjudication after full-fledged trial and in support of such contention, circumstantial evidence suffices to establish a prima facie case at this stage.



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8. Importantly, the appellants themselves have in their affidavits filed along with I.A.No.4 and 6 admitted that, plaintiff resided in the suit schedule property with their deceased son and that she was accommodated there by them. This admission coupled with production of electricity bills, gas receipts, internet bills and other material corroborates her presence in the property undeniably strengthens her claim of possession even if as alleged by the appellants, plaintiff is presently residing in US. There is nothing on record to rebut the plaintiffs' assertion that, she frequently returns to Bengaluru and continues to maintain dominion over the suit property. The mere assertion of her absence or alleged trespass by unknown persons does not *prima facie* negate her possessory interest, particularly when the appellants themselves do not reside in the suit property.

9. Furthermore, the claim of suppression of earlier proceedings in OS No.4696/2023 is without merit. The record shows that, plaintiff has specifically disclosed



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existence of the earlier suit in the present plaint and has explained that, the same was a bare suit for injunction which was not pressed in light of broader and more comprehensive reliefs sought in the present suit for declaration, partition and injunction.

10. The Foreign Marriage Act, 1969 was enacted to regulate marriage solemnized by Indian citizen outside the territory of India. It lays down a formal procedure for how such marriages to be performed and legally recognized. Primarily, the Act provides that, an Indian citizen intending to marry in a foreign country must do so in the presence of a Marriage Officer appointed by the Government of India for that country. The Act also requires certain steps as giving notice of intended marriage, verification by the officer and registration of the marriage under the Act. If all these formalities are fulfilled, a certificate is issued by the Marriage Officer which serves as conclusive proof of the marriage under the Indian Law. However, it is important to note that, the Act does not say that, every marriage of



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an Indian citizen solemnized abroad must necessarily be registered under it. The Act provides a formal legal framework for marriage abroad but, it does not state that failure to follow it would render all such marriages void or without any legal effect. Marriages can still be considered valid based on the personal law applicable to the parties and law of the country where the marriage was performed. For example, if two individuals get married in a foreign country, according to local laws or religious or customary manner recognized in that jurisdiction, the marriage may still be considered valid under Indian Law unless it violates Indian Public Policy or any mandatory legal condition.

11. In the present case, the appellants have objected to the marriage certificate produced by the plaintiff on the ground that, it is not issued under Foreign Marriage Act, 1969, it is only notarized. He argues the absence of certification from an office makes the marriage invalid. However, such an objection by itself is not sufficient to reject the existence of marriage at initial



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stage. The Foreign Marriage Act is meant to provide, a secure and uniform process in abroad but, it is not exclusive in its application.

12. If the parties have undergone a marriage in accordance with the norms or religious practices of the foreign country and the ceremony is documented and supported by evidence, such as cohabitation, joint financial dealings and social recognition, the marriage may still carry legal significance in India.

13. The intention of the law is not to invalidate genuine marital relationship merely because the parties failed to register a marriage under the enactment. The law recognize the personal and social relations and may not always align neatly with statutory processes. Therefore, the provisions of Foreign Marriage Act, 1969 must be interpreted in a purposive and inclusive manner so as not to exclude genuine relationship from legal protection simply due to procedural irregularities. The validity of the marriage in such cases, becomes a question of fact to be



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determined at trial based on the conduct of the parties, the documentary record and the surrounding circumstances.

14. Thus, even if a marriage is not registered under the Foreign Marriage Act, 1969, it can still be treated as valid marriage under Indian law for interim purposes, particularly when party asserting the marriage supports it with documents such as photos, proof of residence, joint account or correspondence.

15. Whether or not plaintiff's marriage fulfills all the technical conditions of the Foreign Marriage Act is a matter to be examined at the final stage of the suit and not during the consideration of temporary injunction.

16. In light of the above, I find that the trial Court has rightly concluded that, the plaintiff has established a *prima facie* case in her favour. The balance of convenience undoubtedly tilts with the plaintiffs. If she is dispossessed or if the suit property is alienated during the pendency of





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the proceedings she would suffer irreparable injury and cannot be adequately compensated by damages. On the other hand, grant of interim protection does not irreversibly harm the defendants whose title and ownership claims can still be adjudicated at the trial. I also do not find any legal infirmity in the verification of the plaint. The plaintiff's Special Power of Attorney holder has signed the plaint, and there is a procedural irregularity curable under law and do not affect merits of the application for temporary injunction. The trial Court's discretion exercised under Order 39 Rule 1 and 2 CPC therefore calls for no interference being sound reasoned and in conformity with settled legal principles. Resultantly, the following:

### **ORDER**

All the four Misc. First Appeals namely MFA Nos.332/25, 336/25, 458/25 and 489/25 stand dismissed. The common order dated 16.10.2024 passed by the X Addl. City Civil and



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Sessions Judge, Bengaluru in OS No.7645/2023  
is hereby affirmed. The interim injunction  
granted in favour of the plaintiff shall continue  
to operate until the disposal of the suit.  
Under the circumstances, the costs made easy.

**Sd/-**  
**(RAMACHANDRA D. HUDDAR)**  
**JUDGE**

SK  
List No.: 1 Sl No.: 38