



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 445 OF 2024 (GM-RES)

BETWEEN:

1. SMT B MANJULA
W/O PAPPANNA
D/O LATE BATHYAPPA
AGED ABOUT 46 YEARS,
R/AT NO.61, G MAIN ROAD,
JOGUPALYA, NANDANAVANAM,
NEAR HAL 2ND STAGE,
HALSUR, BENGALURU - 560 008

... PETITIONER

(BY SRI. B RAMESH., ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER
KOLAR SUB DIVISION,
KOLAR - 563 101.
2. SMT. MUNIVENKATAMMA
W/O LATE BATHYAPPA,
AGED ABOUT 78 YEARS,
3. SRI. VENKATESH
S/O LATE BATHYAPPA,
AGED ABOUT 61 YEARS

BOTH RESPONDENT NO.2 AND 3
ARE RESIDING AT:-
GAJALADINNE VILLAGE,
KASABA HOBLI, KOLAR TALUK
KOLAR DISTRICT, KOLAR - 563 101.

... RESPONDENTS

(BY SRI. C.H. DEVARAJ, GOVERNMENT ADVOCATE FOR R1;
SRI A.C. CHETHAN, ADVOCATE FOR R2 AND R3)

Digitally signed
by SHWETHA
RAGHAVENDRA
Location: HIGH
COURT OF
KARNATAKA



THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 31.08.2023 BEARING NO.ADM.CR.38/2022-23 PASSED BY THE R-1 IS PRODUCED AND MARKED AS ANNEXURE-K AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The Petitioner is before this Court seeking for the following reliefs:

- a. Issue a writ in the nature of certiorari by quashing the order dated 31.08.2023 bearing No.ADM.CR.38/2022-23 passed by the 1st Respondent is produced and marked as **ANNEXURE-K;***
- b. To pass such orders as this Hon'ble court deems fit to be granted in the facts and circumstances of the case in the interest of justice and equity.*

2. The Petitioner is the daughter of respondent No.2 and sister of respondent No.3. Respondent No.2-mother had executed a gift deed in favour of the daughter on 16.07.2022. Subsequently, respondent No.3-son of respondent No.2 had filed a suit in O.S.No.380/2022 seeking for partition as also setting



aside the Gift Deed executed in favour of the Petitioner.

3. While the said suit was pending, the mother had filed an application under Section 23 of the Karnataka Maintenance Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'the Act' for short) seeking for cancellation of the gift deed dated 16.07.2022 and restoring the property in the name of the mother. The said application came to be allowed by respondent No.1 vide order dated 31.08.2023. It is thereafter that the memo had been filed in the pending suit for dismissal of the suit as settled out of Court. The Petitioner-daughter is before this Court challenging the order dated 31.08.2023.
4. The submission of Sri. B. Ramesh, learned counsel appearing for the petitioner, states that all the actions have been taken at the instance of respondent No. 3, the brother. There is no particular



clause in the gift deed indicating that the Petitioner-donee is required to take care of respondent No.2-owner and as such, the conclusions which have been arrived at by respondent No.1-Assistant Commissioner are untenable and are required to be set aside.

5. Sri A.C.Chethan, learned counsel appearing for respondent Nos.2 and 3 submits that the above petition has been rendered infructuous since post the order dated 31.08.2023, respondent No.2-mother has executed a sale deed in favour of respondent No.3-brother in the month of October, 2023, which has also been entered into in the Record of Rights, Tenancy and Crops (RTC).
6. Heard Sri B. Ramesh, learned counsel for the Petitioner and Sri A.C.Chetan, learned counsel for respondent Nos.2 and 3. Perused papers.
7. The submission made by the learned counsel for the Petitioner that everything was initiated at the



instance of respondent No.3 which is not taken into consideration by the Assistant Commissioner, is now borne out by the fact that there is a sale deed executed by respondent No.2 in favour of respondent No.3 immediately after the order passed by the Assistant Commissioner. In fact, there is much to be said about the conduct of respondent No.3 inasmuch as respondent No.3 had filed a suit in O.S.No.380/2022 seeking for partition as also for a declaration that the gift deed was not binding on respondent No.3.

8. It is while the suit was pending, wherein respondent No.2 was defendant No.1 and the Petitioner was defendant No.7, that respondent No.1 had filed an application under Section 23 of the Act and it is after the orders which were passed by the Assistant Commissioner that the suit came to be withdrawn as settled out of Court. It is required to be noticed that what was said was the matter was amicably settled



out of Court and not that there was an order passed by the Assistant Commissioner. The suit and the claim made therein did not achieve finality on account of the withdrawal made by respondent No.3.

9. The written statement filed by defendant No.1-mother is also of considerable importance inasmuch as the mother in the written statement filed on 28.09.2022 has clearly and categorically stated that the gift deed was made in favour of the daughter on account of love and affection shown by the daughter and there was a statement made that even as on 28.09.2022 the daughter was taking care of the mother.
10. It was categorically stated that the mother had executed the gift deed without undue influence, coercion etc., even more, the statement was made by the mother that the plaintiff and grandchildren of defendant No.1 i.e., defendant Nos.2 to 6 have no right over the suit schedule property.



11. It is surprising that such a written statement was filed on 28.09.2022, whereas the application before the Assistant Commissioner was filed on 16.02.2023 within a period of three months thereafter. This assumes importance also for the reason that immediately after the order was passed by the Assistant Commissioner, a Sale Deed has been executed by the mother in favour of the son, on which basis mutation has been carried out and recorded in the records of tenancy and crops.
12. The entire sequence of events indicates that the entire matter has been set up by respondent No.3-brother, whose conduct is required to be deprecated and is so deprecated.
13. Coming to the merits of the matter, since it is clear that there was a gift deed which has been executed by the mother in favour of the daughter, in her own words in the written statement, subsequently filed without any undue influence or coercion, out of love



and affection, and where the mother has categorically stated that the daughter is taking care of her. Even though there is no particular clause in the gift deed, was required to be considered, the Assistant Commissioner ought to have rejected the application filed by the mother.

14. For all the aforesaid reasons, this Court finds that the order passed by the Assistant Commissioner is full of the infirmities indicated, requiring this Court to intercede, and as such, this Court passes the following:

ORDER

- i) Writ petition is ***allowed***.
- ii) Certiorari is issued, the order dated 31.08.2023, bearing No.ADM.CR.38/2022-23 passed by respondent No.1 at Annexure-K, is quashed.
- iii) Any action taken pursuant to the order dated 31.08.2023 is also declared invalid.
- iv) The Jurisdictional Sub-registrar is directed to restore the gift deed dated 16.07.2022 onto its file



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and effect cancellation of the sale deed executed by
respondent No.2 in favour of respondent No.3
within four weeks from the date of receipt of a copy
of this order.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

KTY
List No.: 1 Sl No.: 32