



CNR: KAHC010131162016

NC: 2026:KHC:49335
WP No. 53611 of 2016
C/W WP No. 1501 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 53611 OF 2016 (GM-CPC)

C/W

WRIT PETITION NO. 1501 OF 2023 (GM-CPC)

IN WP No. 53611/2016

BETWEEN:

1. SRI SHIVANNA
S/O KEMPEERIAIAH
AGED 58 YEARS
R/A NARASANDRA VILLAGE
MUTHANAPALYA P.O, MAGADI TALUK
BANGALORE DISTRICT
NOW RAMANAGARA DISTRICT

...PETITIONER

(BY SRI. T. SESHAGIRI RAO, ADVOCATE)

AND:

1. SMT. NAGAMMA
W/O NARASIMHAMURTHY
AGED 60 YEARS
R/A GANGONDANAHALLI VILLAGE
LAKSHMIPURA POST, NELAMANGALA TALUK
BANGALORE RURAL DISTRICT.
2. SMT. THIMMAKKA
D/O LATE NARAYANAPPA
AGED 42 YEARS
MUTHANAPALYA, NARASANDRA P.O
KUDUR HOBLI, MAGADI TALUK
RAMANAGARA DISTRICT

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3. SMT. ERAMMA
W/O GOVINDAPPA
AGED 37 YEARS
R/A K.G. SRIKANTAPURA
LAKSHMIPURA P.O
DASANAPURA HOBLI
BANGALORE NORTH TALUK
4. SRI. KUMAR
S/O LATE NARAYANAPPA
AGED 32 YEARS
MUTHANAPALYA VILLAGE
NARASANDRA P.O, MAGADI TALUK
BANGALORE DISTRICT
NOW RAMANAGARA DISTRICT

...RESPONDENTS

(V/O DATED 09.06.2022, R3 IS HELD SUFFICIENT;
V/O DATED 25.02.2025, R1 AND R2 ARE HELD SUFFICIENT)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH OF THE ORDER
DATED 15.9.2016 ONE PASSED BY THE CIVIL JUDGE & JMFC
NELAMANGALA IN MISCE.NO.2/2005 FOUND AT ANNEXURE-J
TO THE W.P.

IN WP NO. 1501/2023
BETWEEN:

SMT T NAGAMMA
W/O N NARASIMHAMURTHY
SINCE DEAD BY LRS

SRI. N.NARASIMHAMURTY,
S/O NARASIMHAIAH,
H/O LATE SMT. T.NAGAMMA,
SINCE DEAD BY LRs 1(b) TO 1(e)

1. SRI. N. KUMAR
S/O LATE N.NARASIMHAMURTY,

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AND LATE SMT. NAGAMMA,
AGED ABOUT 43 YEARS,

2. SMT. N. BHAGYAMMA
S/O LATE N.NARASIMHAMURTY,
AND LATE SMT. T. NAGAMMA,
AGED ABOUT 41 YEARS,
3. SRI. N.NAGARAJU
S/O LATE N.NARASIMHAMURTY,
AND LATE SMT. NAGAMMA,
AGED ABOUT 39 YEARS,
4. SMT. N. NAGARATHNA
S/O LATE N.NARASIMHAMURTY,
AND LATE SMT. NAGAMMA,
AGED ABOUT 32 YEARS,

ALL ARE R/A GANGONDANAHALLI (DAKLE)
K.G.SRIKANTAAPURA,
DASANAPURA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU RURAL DISTRICT-562162.

...PETITIONERS

(SRI. B.K. CHANDRASHEKAR, ADVOCATE)

AND:

SRI KEMPEERAI AH
SINCE DECEASED BY LRS

SMT. NINGAMMA
W/O LATE KEMPEERAI AH
SINCE DECEASED BY HER LRS

SRI. N.NARAYANAPPA
SINCE DEAD BY HIS LRS

SMT. JAYAMMA

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W/O LATE NARAYANAPPA
SINCE DEAD BY LR_s

1. SMT. THIMMAKKA
D/O LATE NARAYANAPPA,
AGED ABOUT 35 YEARS,
R/A MUTHYANAPALYA,
NARASANDRA POST, KUDUR HOBLI
MAGADI TALUK, BENGALURU DIST.-562162.
2. SMT. ERAMMA
D/O LATE NARAYANAPPA,
W/O GOVINDAPPA,
AGED ABOUT 30 YEARS,
R/A K.G.SRIKANTAPURA,
LAKSHMIPURA POST,
DASANAPURA HOBLI,
BENGALURU NORTH TALUK-562 162.
3. SRI. KUMAR
S/O LATE NARAYANAPPA,
AGED ABOUT 25 YEARS,
R/A MUTHYANAPALYA,
NARASANDRA POST, KUDUR HOBLI,
MAGADI TALUK, BENGALURU DIST.-562 162.
4. SRI. SHIVANNA
S/O LATE KEMPEERAIHAH,
MAJOR, R/A SRIKANTAPURA,
GANGONDANAHALLI VILLAGE,
DASANAPURA HOBLI,
BENGALURU NORTH TALUK.-562162.

...RESPONDENTS

(BY SRI. T. SHESHAGIRI RAO, ADVOCATE FOR R4;
R1 TO R3 ARE SERVED AND UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE
IMPUGNED ORDER DATED 17.12.2022 PASSED IN

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O.S.NO.152/1994 ON I.A.NO.10 BY THE III ADDL. CIVI JUDGE
AND JMFC, NELAMANGALA, VIDE ANNEX-A.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned writ petition in W.P.No.53611/2016 is
filed by defendant No.2 calling in question the order dated
15.09.2016 passed in Miscellaneous Petition No.2/2005,
whereby the learned Trial Judge has allowed the petition
and consequently restored O.S.No.152/1994 to file.

2. The principal grievance of the petitioner is that
the suit, which came to be dismissed in the year 2003, has
been restored after a lapse of nearly a decade. It is
contended that the suit being one for specific performance
of contract, the plaintiff is required to establish continuous
readiness and willingness to perform her part of the
contract till the passing of the decree and, therefore,

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restoration of the suit after such a long lapse ought not to have been permitted.

3. Learned counsel appearing for the petitioner has sought to assail the order of restoration on several grounds. However, on a specific query being put to learned counsel as to the present stage of the suit, it is fairly submitted that no interim order has been granted by this Court and, in the interregnum, the suit has substantially progressed and is presently set down for arguments.

4. In view of the aforesaid submission, the challenge to the order of restoration has lost its practical significance. The suit having substantially progressed in the absence of any order of stay and having reached the stage of final arguments, interference with the order of restoration at this stage would serve no useful purpose. The relief sought in W.P.No.53611/2016 has, therefore, been rendered infructuous by subsequent events.



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5. Accordingly, W.P.No.53611/2016 is liable to be dismissed as having become infructuous.

6. W.P.No.1501/2023 is filed by the plaintiff calling in question the order dated 17.12.2022 passed by the learned III Additional Civil Judge and JMFC, Nelamangala, in O.S.No.152/1994, whereby I.A.No.8 filed under Order XXVI Rule 10A of the Code of Civil Procedure, 1908 (for short, 'CPC') has been rejected.

7. By I.A.No.8, the plaintiff sought reference of the disputed signatures and thumb impressions of the defendants appearing on Ex.P1-suit agreement dated 03.04.1981 for scientific examination and expert opinion. The application proceeds on the premise that the defendants have denied execution of the suit agreement and, therefore, the plaintiff seeks to discharge the burden resting upon her to establish due execution of the document by obtaining an expert opinion.

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8. The application was opposed by the defendants. Apart from disputing the necessity and maintainability of the request at that stage, the defendants specifically brought to the notice of the Trial Court that the suit had already reached the stage of arguments. It was further pointed out that the plaintiff herself had filed a memo dated 16.02.2022 stating that she was not pressing the prayer for obtaining a Forensic Science Laboratory report in respect of the signatures and thumb impressions of the defendants.

9. Taking note of the said memo and the stage of the proceedings, the learned Trial Judge rejected I.A.No.8. It is this order which is called in question in W.P.No.1501/2023.

10. Having heard learned counsel for the parties and having perused the material on record, the following point arises for consideration:

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"Whether the learned Trial Judge was justified in declining to refer the disputed signatures and thumb impressions of the defendants for scientific examination at this stage of the suit?"

11. There is an additional and fundamental circumstance which disentitles the petitioner from seeking interference. This is not the first occasion on which the plaintiff has sought scientific comparison of the disputed signatures. An earlier attempt had been made and the signatures were referred to an expert for comparison. The expert, upon examining the material, expressed his inability to undertake a meaningful scientific comparison in the absence of contemporaneous admitted signatures, having regard to the considerable time gap between the admitted signatures and the disputed signatures.

12. The contention of learned counsel for the petitioner that the earlier expert had simply declined to undertake the examination and returned the documents is

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not borne out by the record. The communication dated 07.03.2022 addressed by the expert to the Trial Court specifically indicates that admitted signatures of the defendants proximate to the date of execution of the suit agreement were required for the purpose of scientific comparison. The suit agreement is of the year 1981. Even thereafter, the plaintiff has not placed before the Court any contemporaneous document containing admitted signatures of the defendants which could form a proper basis for comparison.

13. The contention that it is for the defendants to produce their admitted signatures proximate to the date of execution of the suit agreement cannot, in the facts of the present case, come to the aid of the petitioner. The burden of proving execution of the suit agreement is upon the plaintiff. More importantly, the plaintiff had herself filed a memo dated 16.02.2022 categorically stating that she was not pressing the application seeking forensic examination.

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Having taken such a position before the Trial Court, the plaintiff cannot seek to reopen the very issue at a stage when the suit has reached final arguments.

14. The request is also required to be considered in the backdrop of the age of the litigation. O.S.No.152/1994 was instituted in the year 1994. The suit remained dismissed for nearly a decade and was thereafter restored. The proceedings have now substantially progressed and have reached the stage of arguments. The jurisdiction under Article 227 of the Constitution is supervisory and is not intended to facilitate repeated interlocutory applications which have the effect of delaying adjudication of an old suit.

15. Permitting the petitioner to undertake another round of expert examination, without even producing contemporaneous admitted signatures as required by the expert, would only result in further prolongation of the proceedings. At this stage, the Court is required to balance



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the right of a party to place relevant evidence on record with the equally important requirement that litigation must reach finality within a reasonable time. In the facts obtaining herein, the latter consideration assumes significance. For the foregoing reasons, the point formulated above is answered in the ***affirmative***

16. This Court, therefore, finds that the learned Trial Judge has exercised the discretion vested in him properly and for reasons which are germane to the controversy. No jurisdictional error, perversity or material irregularity is demonstrated warranting interference under Article 227 of the Constitution of India.

Both W.P.No.53611/2016 and W.P.No.1501/2023 stand ***dismissed***.

The learned Trial Judge shall make every endeavour to bring O.S.No.152/1994 to its logical conclusion expeditiously, having regard to the vintage of the litigation. The parties shall address their arguments on the



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date fixed by the Trial Court and shall extend full co-operation for disposal of the suit. No unnecessary or avoidable adjournment shall be sought by either party.

Ordered accordingly.

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(SACHIN SHANKAR MAGADUM)
JUDGE

NBM
List No.: 1 SI No.: 4