



CNR: KAHC010037042020

NC: 2026:KHC:50726
WP No. 4063 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 4063 OF 2020 (GM-CPC)

BETWEEN:

1. SMT. AMMAYYAMMA
W/O LATE N.A. SEENAPPA REDDY
AGED ABOUT 68 YEARS
R/AT NO.34, 16TH A MAIN
N.S. PALYA, B.T.M II STAGE
BANGALORE - 560 076.
2. SRI. NAGESHA N.S,
S/O LATE N.A. SEENAPPA REDDY
AGED ABOUT 49 YEARS
R/AT NO.34, 16TH A MAIN
N.S. PALYA, B.T.M II STAGE
BANGALORE - 560 076.

...PETITIONERS

(BY SRI. P.B. RAJU, ADVOCATE)

AND:

1. SRI. A. GOPALA REDDY
S/O LATE T. ABBAIAH REDDY
AGED ABOUT 65 YEARS
R/AT NANJAPURA VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BANGALORE DISTRICT.

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2. SRI. A. NARAYANA REDDY
S/O LATE T. ABBAIAH REDDY
AGED ABOUT 62 YEARS
R/AT NANJAPURA VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BANGALORE DISTRICT.
3. SMT. RAMAKKA
D/O LATE T. ABBAIAH REDDY
AGED ABOUT 60 YEARS
R/AT DEVARACHIKKANAHALLI
BEGUR HOBLI,
BANGALORE SOUTH TALUK,
BANGALORE DISTRICT.
4. SMT. YASHODAMMA
D/O LATE T. ABBAIAH REDDY
AND W/O KRISHNA REDDY
R/AT "GOKULA NILAYA",
KONAPPANAAGRAHARA
ELECTRONIC CITY POST
BANGALORE - 560 100.
5. SRI. N.A. RAMAKRISHNA
S/O LATE T. ABBAIAH REDDY
AGED ABOUT 56 YEARS
R/NEAR GOVT. SCHOOL
KONAPPANA AGRAHARA
ELECTRONIC CITY POST
BANGALORE - 560 100

...RESPONDENTS

(BY SRI. VIJAYA KARISHNA BHAT M, ADVOCATE
FOR R3 TO R5;
R1 AND R2 SERVED AND UNREPRESENTED)

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THIS WP IS FILED ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS IN MA NO.5017/2017 VIDE ANENXURE-A ON THE FILE OF THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT SIT AT ANEKAL AND O.S.NO.469/2011 VIDE ANNEXURE-B ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC AT ANEKAL AND ETC.,

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 petitioners, who are the plaintiffs in O.S.No.469/2011, are before this Court calling in question the concurrent orders passed by the Courts below on the application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, 'CPC'), whereby the petitioners sought an order of temporary injunction restraining the defendants from alienating the suit schedule properties during the pendency of the partition suit.

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2. Heard the learned counsel appearing for the petitioners and perused the impugned orders as well as the material available on record.

3. The Trial Court, upon consideration of the *prima facie* material produced by both the parties, has noticed that the names of the plaintiffs as well as the defendants are reflected with specified extents in the RTC extracts/revenue records. The said entries, *prima facie*, lend support to the contention of the defendants that a partition has already taken place between the parties. Having regard to the nature of the entries in the revenue records and the rival claims of the parties, the Trial Court was of the view that the petitioners had failed to make out a *prima facie* case warranting interference by way of temporary injunction. Accordingly, the learned Trial Judge declined to exercise the discretion vested under Order XXXIX Rules 1 and 2 of CPC.

4. The said order was carried in appeal by the petitioners in M.A.No.5017/2017. The Appellate Court, upon re-appreciation of the material on record, concurred with the



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findings recorded by the Trial Court and dismissed the appeal vide order dated 13.12.2019.

5. This Court finds that the present petition does not warrant interference, even for an additional reason. The suit for partition was instituted as far back as in the year 2011. The application for temporary injunction came to be rejected by the Trial Court on 26.04.2017 and the appeal therefrom was dismissed on 13.12.2019. The petitioners have thus failed to secure any interim order for several years, notwithstanding the pendency and substantial progress of the suit. At this stage, when the suit has substantially progressed, the very purpose for which a prohibitory order was sought at the inception of the proceedings does not survive in the same form so as to warrant interference under Article 227 of the Constitution of India.

6. Be that as it may, even on merits, this Court finds no perversity or jurisdictional error in the orders passed by the Courts below. The Trial Court has considered the prima facie material placed by both sides, particularly the revenue records relied upon by the parties, and has thereafter declined to grant an order of temporary injunction. The Appellate Court has



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independently considered the matter and has affirmed the said exercise of discretion. The jurisdiction under Article 227 of the Constitution of India is supervisory in nature and is not intended to substitute the discretion exercised by the Courts below merely because another view of the prima facie material may be possible. In the absence of perversity, arbitrariness, or failure to exercise jurisdiction, no interference is warranted with concurrent discretionary orders passed on an application under Order XXXIX Rules 1 and 2 of CPC.

7. It is also significant that the petitioners have remained without an interim order throughout the pendency of the suit. No circumstance is placed before this Court which would justify upsetting the concurrent exercise of discretion by the Courts below at this belated stage.

8. For the foregoing reasons, the writ petition is devoid of merit and is accordingly ***dismissed***.

9. It is, however, made clear that any alienation, if made by the defendants in respect of the suit schedule properties during the pendency of O.S.No.469/2011, shall remain subject



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to the final outcome of the said suit and shall abide by the decree that may ultimately be passed therein.

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**(SACHIN SHANKAR MAGADUM)
JUDGE**

HDK
List No.: 1 Sl No.: 18