



CNR: KAHC010037952021

NC: 2026:KHC:43863
W.P. No.1772/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 17TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.1772/2021 (GM-CPC)

BETWEEN:

SRI. S. RAMESH
S/O LATE SURAPPA SHETTY
AGED ABOUT 62 YEARS
R/O INDIRANAGARA BILAGULA
HESGAL POST, MUDIGERE TALUK
CHIKMAGALUR 577132.

...PETITIONER

(BY SRI. VIGNESHWAR S. SHASTRI, SR. COUNSEL FOR
SRI. GURURAJ R, ADV.,)

AND:

SMT. NAGARATHNA
W/O K.H. VENKATESH
AGED ABOUT 61 YEARS
SINCE DIED ON 28.08.2021
BY HER LR'S.

- 1(a) SRI. K.H. VENKATESH
S/O HUCHEGOWDA
AGED ABOUT 73 YEARS
R/O. KOLLIBYLE, HESGAL POST
MUDIGERE TALUK
CHIKMAGALURU DIST - 577132.
- 1(b) SMT. K.V. KOKILA
D/O K.H. VENKATESH &
W/O N.R. THEJASWI
AGED ABOUT 47 YEARS

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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R/O. KOTE, CHIKAMAGALUR CITY
CHIKAMAGALUR TALUK
CHIKMAGALURU DIST - 577132.

1(c) SRI. K.V. VIKAS
S/O K.H. VENKATESH
AGED ABOUT 45 YEARS
R/O. KOLLIBYLE, HESGAL POST
MUDIGERE TALUK
CHIKMAGALURU DIST - 577132.

1(d) SRI. K.V. RAKESH
S/O K.H. VENKATESH
AGED ABOUT 43 YEARS
R/O. KOLLIBYLE, HESGAL POST
MUDIGERE TALUK
CHIKMAGALURU DIST - 577132.

...RESPONDENTS

(BY SRI. M.V. RAMESH JOIS, ADV., FOR R1 (a to d))

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDERS DTD. 05.10.2020, 05.11.2020, 14.12.2020 AND 08.01.2021 PASSED IN EXECUTION CASE NO.37 OF 2019 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC MUDIGERE AS PER ANNEX-F. & ETC.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



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ORAL ORDER

This petition is filed seeking the following reliefs:

"i) Issue a writ of certiorari or any other appropriate writ, order or direction quashing the orders dated 05.10.2020, 05.11.2020, 14.12.2020 & 08.01.2021 passed in Execution Case No.37 of 2019 on the file of Senior Civil Judge and JMFC Mudigere as per ANNEXURE-F.

ii) Issue any other writ or order or direction that deems fit to grant in the circumstances of the case in the interest of justice and equity."

2. Sri.Vigneshwar S. Shastri, learned Senior counsel appearing for Sri.Gururaj R., learned counsel for the petitioner submits that the petitioner is the judgment debtor in the execution proceedings and has challenged the orders passed therein, wherein the Court has issued delivery warrant pursuant to the judgment and decree. It is submitted that the judgment and decree passed in OS.No.7/2018 is assailed by the petitioner before this Court in Regular First Appeal (RFA) in RFA.No.98/2021, which is pending consideration. In the said appeal, the



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petitioner has filed an application seeking stay of the judgment and decree. However, due to the delay in filing the appeal and subsequently, due to the death of the plaintiff, the application to bring legal representatives (LRs) of the plaintiff is pending consideration. Hence, the application seeking stay could not be considered. Meanwhile, the Executing Court is proceeding further by issuing the delivery warrant. It is further submitted that if the judgment and decree is executed during the pendency of the appeal, nothing remains in the appeal to be considered. It is also submitted that execution of the decree would cause great injustice and hardship to the petitioner, as the decree grants possession of an extent of two guntas, over which the petitioner has constructed a house in which he is residing and has also installed a borewell.

3. It is contended that if the respondents come forward to settle the dispute, the petitioner is ready to pay



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the market value of the said land, including the malkies, if any, and that can be worked out either in the execution proceedings or in the RFA. It is further contended that considering the aforesaid submissions, this Court had granted an interim order directing the petitioner to deposit a sum of Rs.2,00,000/-, which has already been deposited before this Court. Hence, he seeks to allow the petition by deferring the execution proceedings till RFA is disposed of.

4. There is no representation on behalf of the respondents.

5. I have heard the arguments of the learned Senior counsel for the petitioner and meticulously perused the material available on record.

6. The respondent herein filed a suit in OS.No.7/2018 seeking the reliefs of declaration, permanent injunction, mesne profit and other consequential reliefs. The said suit came to be decreed on



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13.11.2019. Pursuant thereto, the respondent had filed Execution Case No.37/2019 seeking to execute the judgment and decree passed in OS.No.7/2018 and sought issuance of a delivery warrant. The Executing Court, under the impugned order, issued the delivery warrant and passed subsequent orders. The order sheet of the Executing Court indicates that the execution proceedings could not be proceeded in view of the closure of the Courts due to COVID-19 pandemic.

7. It is to be noticed that the petitioner has assailed the judgment and decree passed in OS.No.7/2018 before this Court in RFA.No.98/2021, which is pending consideration. It is further to be noticed that the said appeal was filed with a delay, and this Court has issued notice on the condonation of delay application as well as on the appeal. In the meanwhile, the respondent/plaintiff passed away, hence the application to bring LRs was filed and came to be allowed. It is further to be noticed that



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this Court has stayed the execution proceedings vide order dated 01.02.2021, subject to the petitioner depositing a sum of Rs.2,00,000/- before the Registry of this Court.

8. It is also to be noticed that the petitioner has deposited the aforesaid amount as ordered by the Court and that appeal is still pending before this Court. It is relevant to note that the petitioner has made specific contention that if the respondents come forward to settle the dispute, he is ready to pay the market value of the two guntas of land over which the residential house and borewell are situated.

9. Considering the aforesaid submissions and taking note of the fact that amount is deposited as ordered by this Court and pendency of the RFA, I am of the considered view that the execution proceedings are required to be deferred till the Regular First Appeal (RFA) filed by the petitioner is considered and disposed of on merits. Accordingly, I proceed to pass the following:



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ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned orders dated 05.10.2020, 05.11.2020, 14.12.2020 & 08.01.2021 passed in Execution Case No.37/2019 by the Senior Civil Judge and JMFC Mudigere (Executing Court) are kept in abeyance till the Regular First Appeal is disposed of.
- iii. The amount in deposit before this Court shall be transmitted back to the Executing Court.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 21