



CNR: KAHC010042852022

NC: 2026:KHC:42552
W.P. No.1867/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.1867/2022 (GM-CPC)

BETWEEN:

1. SMT. RANGAMMA
W/O LATE GANGANNA
AGED ABOUT 73 YEARS.
2. SRI. SIDDAGANGAIAH
S/O LATE GANGANNA
AGED ABOUT 53 YEARS.

BOTH ARE R/AT.
BOODAGAVI SIDDARABETTA
C.N. DURGA HOBLI 572101
KORATAGERE TALUK
TUMKUR DISTRICT.

...PETITIONERS

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA

(BY MR. BALAGANGADHAR G.S. ADV.,)

AND:

1. VYAVASAYA SEVA SAHAKARA SANGA LTD
BENDONE, BOODAGAVI SIDDARABETTA
C.N.DURGA, KORATAGERE TALUK
TUMKUR DISTRICT - 572101
REP. BY ITS SECRETARY.
2. VYAVASAYA SEVA SAHAKARA SANGA LTD.
BENDONE, BOODAGAVI SIDDARABETTA
C.N.DURGA, KORATAGERE TALUK



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TUMKUR DISTRICT – 572101
REPRESENTED BY ITS PRESIDENT.

3. GANGARAJU
S/O LATE GANGANNA
AGED ABOUT 56 YEARS
R/OF BOODAGAVI SIDDARABETTA
C.N.DURGA HOBLI-572101.
KORATAGERE TALUK.

4. RANGANNA
S/O SIDDAPPA
AGED ABOUT 58 YEARS.

5. NARASIMHAIAH
S/O GOVINDAPPA
AGED ABOUT 73 YEARS

R4 & R5 ARE R/OF
BOODAGAVI SIDDARABETTA
C.N.DURGA HOBLI-572101
KORATAGERE TALUK.

...RESPONDENTS

(BY MS. POOJA N, ADV., FOR
MR. CHANDRAIAH, ADV., FOR R1 & R2
R4, R5 – SERVED
V/O/DTD:16.10.2025 NOTICE TO R3 IS H/S)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 14.12.2021 PASSED BY THE LEARNED CIVIL JUDGE, JR. DN, KORATAGERE ON I.A., FILED UNDER ARTICLE 135 OF LIMITATION ACT IN EX.P.NO.1/2018 PRODUCED AT ANNEXURE-F, AS THE SAME IS ILLEGAL, PERVERSE, CAPRICIOUS AND LIABLE TO BE SET ASIDE & ETC.

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



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

ORAL ORDER

This writ petition is filed challenging the order dated 14.12.2021 in Ex.No.1/2018 by the Civil Judge and JMFC, Koratagere (for short, '**the Executing Court**') on an application filed by the petitioners under Article 135 of the Limitation Act, 1963 (for short, '**the Act**').

2. Sri.G.S.Balagangadhar, learned counsel for the petitioners submits that petitioners are the judgment-debtors in the execution proceedings; they filed an application seeking to dismiss the execution petition on the ground that filing of the petition is barred by law of limitation under Article 135 of the Act. It is submitted that the respondents-decree holders had filed the suit against the petitioners seeking the relief of declaration, permanent injunction, mandatory injunction, as well as delivery of vacant possession. The trial Court framed the issues and



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decreed the suit by granting the relief of declaration of ownership, mandatory injunction, and permanent injunction, however, no relief of possession was granted. It is further submitted that the respondents-decree holders, to execute the said decree, filed the execution petition, which is filed beyond the period of three (03) years, hence, the same was objected by the petitioners by filing an application. The Executing Court erroneously rejected the said application by recording that the main relief is for possession, and consequential relief is for mandatory injunction by ignoring the fact that relief of possession was never granted by the trial Court. In support of his contentions, he placed reliance on the following decisions:

- i) Sargunam v. Duraisamy¹***
- ii) Jada Chennaiah v. Jada Venkata Subbaiah²***

Hence, he seeks to allow the petition.

¹ LAWS(MAD)-2007-2-348

² AIR 2010 ANDHRA PRADESH 157



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3. Per contra, Ms.Pooja N., learned counsel for Sri.Chandraiah, learned counsel for the respondent Nos.1 and 2 supports the impugned order of the Executing Court and submits that Article 136 of the Act has to be applied to the case on hand as the respondent Nos.1 and 2, who are the plaintiffs, have sought the relief of possession as well and there is no point in granting the relief of mandatory injunction without possession. Hence, the decree has to be construed that it is a decree for possession as well. In support of her contention, she placed reliance on the following decisions:

- i) ***K.Sakthivel vs. Devasagayam Manohar Chandradass***³ of Madras High Court Madurai Bench
- ii) ***Nagubandi Pullaiah and Another vs. Madhuri Srinivas Rao (died) Per his LRs***⁴ of the High Court for the State of Telangana Hyderabad

Hence, she seeks to dismiss the petition.

³ CRP(PD)(MD).No.1867/2018 and CMP(MD)No.8151/2018 DD.12.07.2023

⁴ CRP No.4172/2009 DD.11.10.2022



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4. I have heard the arguments on both sides and perused the material available on record.

5. The respondents-decree holders had filed the suit in O.S.No.125/2001 seeking following relief:

"CLAIM: Suit is for Judgment and decree against the defendants (a) For Declaring that the plaintiff society/Bank is the owner of the suit schedule property, (b) permanent injunction restraining the defendants, their agents, servants, or anybody claiming under them and who unauthorisedly attempting to put up construction the house in the suit schedule property without interfering peaceful possession and enjoyment of the suit schedule property by plaintiff Sangha (c) for mandatory injunction directing the defendants to pull down the illegal construction made by them on the suit schedule property and to deliver vacant possession of such encroached land to the plaintiff, in case the plaintiff fails to do so, the Hon'ble court be pleased to get the construction pulled down and deliver vacant possession of the same, (d) for costs and such other reliefs."



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6. The trial Court decreed the suit in O.S.No.125/2001 vide judgment dated 15.02.2007. The operative portion of the judgment reads as under:

"Plaintiff's suit is decreed. It is declared that the plaintiff is the owner of the property measuring East-West 77 ft. and North-South 112 ft., which includes the building, constructed by them shown in the plaint sketch. The defendants are directed to demolish the construction made by them within the said portion within 3 months from the date of decree. The defendants, their agents, servants, or anybody claiming under them are hereby restrained by way of permanent injunction from unauthorisedly attempting to put up construction of the house in the suit schedule property thereby interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property. Both the parties are directed to bear their own costs of this suit.

Draw decree accordingly."

7. It is to be noticed that the trial Court framed seven (07) issues, wherein additional Issue No.3 is "whether the plaintiffs are entitled for the relief of mandatory injunction and possession as sought?"



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8. Though the said issue is answered by the trial Court in the affirmative, the findings on the said issue clearly indicate that the relief of mandatory injunction as sought by the plaintiffs was granted. Even in the operative portion of the order which is extracted supra makes it clear that the relief of declaration, relief of mandatory injunction and the relief of permanent injunction was granted, however, there is no direction with regard to the delivery of possession.

9. The respondents-decree holders filed execution petition in Ex.No.1/2018 seeking prayer to direct the judgment debtors to demolish the construction put-up by them as shown in the petition sketch schedule property and in the event of failure to do so, a Court Commissioner may be appointed for the said purpose and deliver the possession of the schedule property to the decree holders. Insofar as the first portion of the relief of mandatory injunction is concerned, the same is granted by the trial



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Court in the decree passed in O.S.125/2001. However, it is to be noticed that the delivery of possession was never granted to the respondents-plaintiffs. It is to be noticed that the judgment and decree dated 15.02.2007 was put in execution by filing the execution petition on 01.01.2018. Admittedly, it is beyond the period of three (03) years from the date of judgment and decree passed in O.S.No.125/2001. By considering Section 135 of the Act, I am of the view that the relief granted by the trial Court is only the relief of mandatory injunction, hence, the execution petition is filed beyond the period of limitation.

10. The decisions relied on by the learned counsel for the parties clearly indicate that in a decree for mandatory injunction, limitation would be for a period of 03 years to file an execution petition and if the relief granted is for the delivery of possession, then the limitation period would be 12 years as per Article 136 of the Act.



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11. For the aforementioned reasons, I am of the view that the Executing Court has committed a grave error in rejecting the application of the petitioners-judgment debtors. Hence, I proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned order dated 14.12.2021 in Ex.No.1/2018 by the Civil Judge and JMFC, Koratagere, is set aside. Consequently, execution proceedings in Ex.No.1/2018 pending on the file of the Civil Judge and JMFC, Koratagere, are closed.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE