



CNR: KAHC010053062023

NC: 2026:KHC:46339
W.P. No.2212/2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 27TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.2212/2023 (GM-CPC)

BETWEEN:

SMT. K. PREMALATHA
W/O K. CHANDRASHEKAR
AGED ABOUT 51 YEARS
R/AT FLAT NO.5104
ANRIYA DWELLINGTON
NEAR DOLLARS COLONY
RMV 2ND STAGE
BANGALORE-560094.

...PETITIONER

(BY SRI. NARASIMHARAJU, ADV.,)

AND:

1. SRI. NAGARAJU
S/O MUNIYAPPA
AGED ABOUT 51 YEARS
R/AT SREE MANJUNATHA SCOOTER GARAGE
14TH MAIN ROAD, KUVEMPU LAYOUT
NAGAVARA, NEAR GANAPATHI TEMPLE
BANGALORE-560045.
2. SRI. KRISHNA
S/O SRI. MUNIYAPPA
AGED ABOUT 51 YEARS
R/AT SREE MANJUNATHA SCOOTER GARAGE
14TH MAIN ROAD, KUVEMPU LAYOUT
NAGAVARA, NEAR GANAPATHI TEMPLE
BANGALORE-560045.

...RESPONDENTS

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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(BY SRI. VENKATESHA M.T. ADV.,)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DTD 05.01.2023 PASSED BY THE LXIV ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-65), BENGALURU PASSED ON I.A.NO.9 UNDER ORDER 6 RULE 17 OF CPC IN O.S.NO.4951/2017 AS PER ANNEXURE-A AND CONSEQUENTLY ALLOW THE APPLICATION FILED U/O 6 RULE 17 OF CPC IN O.S.NO.4951/2017 VIDE ANNEXURE-D & 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 petition is filed challenging the order dated 05.01.2023 passed on IA.No.9 in OS.No.4951/2017 by LXIV Additional City Civil and Sessions Judge, (CCH-65), Bengaluru (for short 'the trial Court').

2. Sri.Narasimharaju, learned counsel appearing for the petitioner submits that petitioner filed a suit for injunction against the respondents herein. In the said suit, the defendants took the stand that the suit schedule property has been acquired by the BDA. Based on such



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assertion and also on the endorsement issued by the BDA dated 05.01.2013, the petitioner filed an application seeking amendment of the plaint. However, the trial Court under the impugned order rejected the said application on the ground that the proposed amendment indicates that the plaintiff had knowledge of the acquisition and therefore, it could safely be presumed that the plaintiff was not in possession of the said property. It is submitted that the trial Court failed to appreciate that the acquisition is only on paper and that possession of the property was never taken by the BDA and possession continues to remain with the plaintiff. It is further submitted that the proposed amendment would neither change the nature of the relief sought nor is it barred by the law of limitation, and that no prejudice would be caused to the other side. Hence, he seeks to allow the petition.



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

4. The plaintiff, who is the petitioner herein filed a suit in OS.No.4951/2017 against the respondents herein, seeking the relief of permanent injunction in respect of the suit schedule property. The suit schedule property is a property bearing Site No.1, Khata No.255 in portion of property bearing No.1/1, situated at Nagawara Village, Kasaba Hobli, Bengaluru North Taluk, Bengaluru with checkbandi as shown in the plaint. The defendants entered appearance and filed a written statement on 11.12.2017. In the said written statement, defendant Nos.1 and 2 contended that the suit schedule property had been acquired by the BDA for the formation of the Hennur-Bellary Road Extension Layout. Thereafter, the plaintiff filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short 'CPC'), seeking to bring on



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record the aforesaid facts relating to the purchase of the property by his vendor and issuance of the preliminary and final notifications by the BDA. It is averred that the possession of the property was never taken forth by the BDA and it is with the plaintiff.

5. It is to be noticed that the plaintiff was very much aware of the acquisition proceedings, as is evident from the endorsement dated 05.01.2013 produced at Annexure-E to the writ petition. Despite knowing the said fact, the petitioner/plaintiff failed to narrate the said fact in the plaint when the suit was presented. The application seeking amendment of the plaint was filed after commencement of the trial and the said application was accompanied by an affidavit. Paragraph No.5 of the said affidavit indicates that, due to inadvertence, the aforesaid facts were not brought on record. In my considered view, the said explanation/cause shown in the affidavit cannot be termed as due diligence on the part of the plaintiff. The



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plaintiff cannot plead ignorance of the acquisition proceedings when the suit was filed, as the endorsement dated 05.01.2013 indicates the acquisition of the land in question. Hence, I do not find any good ground to interfere with the impugned order passed by the trial Court.

6. However, it is needless to observe that the findings recorded by the trial Court while rejecting the application under the impugned order shall be strictly restricted to the finding on the application and the said findings cannot be a basis for the trial Court to decide the suit on its merits. With the aforesaid observations, the writ petition is ***disposed of*** without interfering with the impugned order.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 35