



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 2605 OF 2026 (GM-CPC)

BETWEEN:

1. SMT GIRIYAMMA
W/O LATE THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 81 YEARS,
2. SMT. JAYAMMA
D/O LATE THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 67 YEARS,
3. SMT. THIBBAMMA
D/O LATE THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 65 YEARS,
4. SMT. RUKKAMMA
D/O LATE THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 61 YEARS,
5. SMT. PARVATHAMMA
D/O LATE THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 51 YEARS,

ALL ARE RESIDING AT
KAGGALAHALLI VILLAGE,
HAROHALLI HOBLI, KANAKAPURA TALUK,
RAMANAGARA DISTRICT-562117.

...PETITIONERS

(BY SRI. SUNIL S RAO, ADVOCATE FOR
SRI. T SESHAGIRI RAO., ADVOCATE)



AND:

1. SMT PRIYANKA
D/O. NARENDRANATH NALLABATULLA
AGED ABOUT 36 YEARS,
RESIDING AT NO.39, B.G. ROAD,
J.P. NAGAR, 7TH PHASE,
BENGALURU SOUTH TALUK,
BENGALURU-560 078.
2. SRI. KRISHNAPPA
S/O LATE THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 63 YEARS,
RESIDING AT GOLLAHALLI VILLAGE,
HAMLET OF HOSUR, BIDADI HOBLI,
RAMANAGARA TALUK,
RAMANAGARA DISTRICT-562109.
3. SRI. DEVARAJU
S/O LATE THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 58 YEARS,
RESIDING AT GOLLAHALLI VILLAGE,
HAMLET OF HOSUR, BIDADI HOBLI,
RAMANAGARA TALUK,
RAMANAGARA DISTRICT-562109.
4. SRI. DESHAPPA
S/O THIPPARAIAH @ THIPPARAPPA
AGED ABOUT 52 YEARS
RESIDING AT GOLLAHALLI VILLAGE,
HAMLET OF HOSUR, BIDADI HOBLI,
RAMANAGARA TALUK,
RAMANAGARA DISTRICT-562109.

...RESPONDENTS

(BY SRI. K. SHASHIKIRAN SHETTY, SR. COUNSEL FOR
SRI. VARUN M. R., ADVOCATE AND
SRI. ASHWIN G.RAJ.,ADVOCATE FOR R1;
SRI. YATHISH S, ADVOCATE FOR R2 TO R4)



THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASH OF THE ORDER DATED 29.11.2025 ONE PASSED BY THE PRL.SENIOR CIVIL JUDGE AND CJM AT RAMANAGARA AN APPLICATION FILED UNDER ORDER 22 RULE 10 OF CPC IN RA NO. 31/2022 FOUND AT ANNEX-A TO THE WP.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 09.06.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:
CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

Aggrieved by the order dated 29.11.2025 passed in an application filed under Order 22 Rule 10 of CPC in R.A.No.31/2022 by the Principal Senior Civil Judge and CJM at Ramanagara, the petitioners/plaintiff Nos.2 to 6 are before this Court.

2. The petitioners herein, along with respondent No.3, had filed O.S.No.350/2008 seeking the relief of partition and separate possessions. Upon service of summons, the defendants appeared and filed their written statement. The suit was decreed on 25.03.2017, allotting 1/8th share each. The petitioners herein initiated final decree proceedings in FDP.No.3/2022. Aggrieved by the judgment and decree dated 25.03.2017 in O.S.No.350/2008, respondent No.2 herein, who



is defendant No.1 had filed an appeal in R.A.No.31/2022 on the file of the Principal Senior Civil Judge and CJM at Ramanagara. In that appeal, the petitioners herein filed an application under Order XXXIX Rule 1 and 2 of the CPC seeking an order of injunction against respondent Nos.2 to 6 herein, which was opposed by the respondents. On 19.02.2024, the said application was allowed and an injunction was granted. At this juncture, respondent No.1 herein had filed an application under Order 1 Rule 10 of CPC, which was opposed by the petitioners, and is pending consideration. Thereafter, respondent No.1 filed an application under Order 22 Rule 10 of the CPC, which was opposed by the petitioners. The Appellate Court, by the impugned order, had allowed the application.

3. While allowing the application, the Appellate Court had considered the judgment of the Apex Court in case of ***Amith Kumar Shaw and Another Vs. Farida Khatoon and Another***¹ and in the case of ***Anjanappa and Others Vs. A.Prabhakar and Others*** arising out of ***Civil Appeal No.1180-1181/2025***. Considering these judgments, the

¹ 2005 (11) SCC 403



Appellate Court had observed that, as per the decision cited by the learned counsel for the respondent Nos.2 to 5, transferee pendente lite is not a necessary party in the suit or appeal. The Appellate Court had further observed that the applicant, being the purchaser pendente lite, is to be impleaded as one of the appellants to proceed with the appeal. It was made clear that, as per the dictum of the Apex Court, the applicant in the present case can raise and pursue the defence of the appellant/defendant No.1, raised before the trial Court. Hence, the Appellate Court was of the view that the decision relied upon by the counsel for the respondents would not come to their rescue. Accordingly, the Court held that Mrs. Priyanka is a necessary party in the appeal and to proceed with the appeal by raising the only defence raised by the appellant/defendant No.1 before the trial Court. Accordingly, the Court allowed the application filed under Order 22 Rule 10 of CPC and permitted the applicant to come on record as one of the appellants.

4. Learned counsel appearing for the petitioners submit that the impugned order is contrary to law and the same is liable to be set aside. It is submitted that respondent No.1 is a



pendente lite purchaser having full knowledge about the application for temporary injunction which was pending adjudication before the First Appellate Court. Being a transferee pendente lite, she has no right to come on record. The First Appellate Court committed illegality in allowing the application and permitted her to come on record as an additional appellant, as if she had acquired title to the property by virtue of the sale deed dated 29.01.2024. As such, the impugned order needs to be set aside. The impleading applicant has not sought leave of the Court to come on record as an additional appellant. In the absence of seeking leave of the Court, the question of allowing the application would not arise for consideration. The First Appellate Court had passed the order in a mechanical manner. It is submitted that when an application under Order 1 Rule 10(2) of CPC is pending, filing an application under Order 22 Rule 10 of CPC and allowing the same is bad in law and the same needs to be set aside. Learned counsel submits that if an application is filed under Order 1 Rule 10 of CPC, the Court would consider the same on its merits of it but she is not entitled to come on record under Order 22 Rule 10 of CPC.



5. Sri. K.Shashikiran Shetty, learned Senior counsel representing Sri. Varun M.R, and Sri. Ashwin G. Raj, advocates for respondent No. 1, and Sri. Yathish S., advocate for respondent Nos. 2 to 4, submit that the Appellate Court had rightly allowed the application. In the light of the judgment of the Apex Court in case of ***Thomson Press (India) Limited Vs. Nanak Builders and Investors Private Limited and Others²***, the pendente lite purchaser can come on record under Order 22 Rule 10 of CPC. The scope of inquiry under Order 1 Rule 10 and Order 22 Rule 10 of CPC is altogether different and this aspect was rightly considered by the Appellate Court when allowing the application. Learned Senior Counsel relied on paragraph Nos.53, 54 and 55 of the said judgment, which read thus:

"53. There is, therefore, little room for any doubt that the transfer of the suit property pendente lite is not void ab initio and that the purchaser of any such property takes the bargain subject to the rights of the plaintiff in the pending suit. Although the above decisions do not deal with a fact situation where the sale deed is executed in breach of an injunction issued by a competent court, we do not see any reason why the breach of any such injunction should render the transfer whether by way of an absolute sale or otherwise ineffective. The party committing the breach may doubtless incur the liability to be

² (2013) 5 SCC 397



punished for the breach committed by it but the sale by itself may remain valid as between the parties to the transaction subject only to any directions which the competent court may issue in the suit against the vendor.

54. The third dimension which arises for consideration is about the right of a transferee pendente lite to seek addition as a party-defendant to the suit under Order 1 Rule 10 CPC. I have no hesitation in concurring with the view that no one other than the parties to an agreement to sell is a necessary and proper party to a suit. The decisions of this Court have elaborated that aspect sufficiently making any further elucidation unnecessary. The High Court has understood and applied the legal propositions correctly while dismissing the application of the appellant under Order 1 Rule 10 CPC. What must all the same be addressed is whether the prayer made by the appellant could be allowed under Order 22 Rule 10 CPC, which is as under:

"10. Procedure in case of assignment before final order in suit.-(1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved.

(2) The attachment of a decree pending an appeal therefrom shall be deemed to be an interest entitling the person who procured such attachment to the benefit of sub-rule (1)."

A simple reading of the above provision would show that in cases of assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved. What has troubled us is whether independent of Order 1 Rule 10 CPC the prayer for addition made by the appellant could be considered in the light of the above provisions and, if so, whether the appellant could be added as a party-defendant to the suit. Our answer is in the affirmative. It is true that the application which the



appellant made was only under Order 1 Rule 10CC but the enabling provision of Order 22 Rule 10CPC could always be invoked if the fact situation so demanded. It was in any case not urged by the counsel for the respondents that Order 22 Rule 10 could not be called in aid with a view to justifying addition of the appellant as a party-defendant. Such being the position all that is required to be examined is whether a transferee pendente lite could in a suit for specific performance be added as a party-defendant and, if so, on what terms.

55. We are not on virgin ground insofar as that question is concerned. Decisions of this Court have dealt with similar situations and held that a transferee pendente lite can be added as a party to the suit lest the transferee suffered prejudice on account of the transferor losing interest in the litigation post transfer. In Khemchand Shankar Choudhari v. Vishnu Hari PatiB this Court held that: (SCC p. 21, para 6)

"6.... The position of a person on whom any interest has devolved on account of a transfer during the pendency of a suit or a proceeding is somewhat similar to the position of an heir or a legatee of a party who dies during the pendency of a suit or a proceeding...." Any such heir, legatee or transferee cannot be turned away when she applies for being added as a party to the suit. The following passage in this regard is apposite: (SCC pD. 20-21, para 6)

"6. Section 52 of the Transfer of Property Act no doubt lays down that a transferee pendente lite of an interest in an immovable property which is the subject-matter of a suit from any of the parties to the suit will be bound insofar as that interest is concerned by the proceedings in the suit. Such a transferee is a representative in interest of the party from whom he has acquired that interest. Rule 10 of Order 22 of the Code of Civil Procedure clearly recognises the right of a transferee to be impleaded as a party to the proceedings and to be heard before any order is made. It may be that if he does not apply to be impleaded, he may suffer by default on account of any order passed in the proceedings. But if he applies to be impleaded as a party and to be



heard, he has got to be so impleaded and heard. He can also prefer an appeal against an order made in the said proceedings but with the leave of the appellate court where he is not already brought on record. The position of a person on whom any interest has devolved on account of a transfer during the pendency of any suit or a proceeding is somewhat similar to the position of an heir or a legatee of a party who dies during the pendency of a suit or a proceeding, or an Official Receiver who takes over the assets of such a party on his insolvency. An heir or a legatee or an Official Receiver or a transferee can participate in the, execution proceedings even though their names may not have been shown in the decree, preliminary or final. If they apply to the court to be impleaded as parties they cannot be turned out."

6. Relying on this judgment, learned Senior counsel submits that there is no illegality with the order impugned and the writ petition is liable to be dismissed.

7. Having heard the learned counsel for the petitioners, learned Senior counsel representing the learned counsel for the respondents, perused the entire material on record. In the light of the arguments advanced by both parties, the issue that falls for consideration is:

"Whether the applicant/purchaser pendente lite is entitled to be brought on record under Order 22 Rule 10 of CPC or she has to come on record only by filing an application under Order 1 Rule 10 of CPC?"

8. It is the case of the applicant that she has acquired interest in the suit schedule property during the pendency of



the appeal and has sought leave of the Court to come on record under Order 22 Rule 10 of CPC. Order 1 Rule 10 of CPC empowers the Court to add any person as a party whose presence before the Court may be necessary in order to enable the Court to effectively and completely adjudicate the dispute and settle the questions involved in the suit. The provision primarily deals with the addition, deletion or substitution of parties on the ground that such person is either a necessary or a proper party. It is well settled that a necessary party is one without whom no effective decree can be passed, whereas a proper party is one whose presence enables the Court to completely and effectively adjudicate upon the disputes involved in the proceedings. However, Order 22 Rule 10 CPC operates in an altogether different sphere. At this juncture, it is appropriate to look at Order 22 Rule 10 of CPC:

"10. Procedure in case of assignment before final order in suit.—(1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon whom such interest has come or devolved.

(2) The attachment of a decree pending an appeal therefrom shall be deemed to be an interest entitling the person who procured such attachment to the benefit of sub-rule (1).



HC-KAR

NC: 2026:KHC:31343
WP No. 2605 of 2026

[10A. Duty of pleader to communicate to Court death of a party.—Wherever a pleader appearing for a party to the suit comes to know of the death of that party, he shall inform the Court about it, and the Court shall thereupon give notice of such death to the other party, and, for this purpose, the contract between the pleader and the deceased party shall be deemed to subsist.]”

9. The provision deals with the assignment, creation, or devolution of interest during the pendency of a suit. The object of the provision is to ensure continuity of litigation notwithstanding the transfer or devolution of interest after the institution of the proceedings. It recognizes the right of a person upon whom such interest has devolved to seek leave of the Court to continue and participate in the proceedings. Hence, the distinction between the two is that when an application under Order 1 Rule 10 CPC is filed, the question is whether the person is a necessary or proper party and the Court has to come to the conclusion that whether his presence is necessary for the effective disposal of the case. When it comes to Order 22 Rule 10 of CPC, the question is whether an existing interest in the subject matter of the litigation has devolved upon another person during the pendency of the suit. The distinction between the two provisions has been recognized



by the Apex Court in **Amith Kumar Shaw's** case referred supra, where the Apex Court held that a transferee pendente lite is a representative in interest of the transferor and may be added as a party to protect the interest acquired by him. The Court observed that all those are bound by the doctrine of *lis pendens* and are nevertheless entitled to seek impleadment because the outcome of the litigation directly affects the rights acquired by him. The Court also observed that the person upon whom such interest devolves should ordinarily be permitted to come on record and to prosecute and defend the proceedings in place of or along with the original party. It is further observed that no detailed enquiry at the stage of granting leave is contemplated. In **Thomson Press (India) Limited's** case referred supra, the Apex Court elaborately considered the right of a purchaser pendente lite and held that the applicant is entitled to seek impleadment under Order 22 Rule 10 of CPC. The Apex Court further clarified that the source of such right is not the doctrine of necessary parties under Order 1 Rule 10 of CPC but the devolution of interest contemplated under Order 22 Rule 10 of CPC. The Apex Court, in the case of **Khemchand**



Shankar Choudhari Vs. Vishnu Hari Patil³, observed that a transferee pendente lite occupies the position of a representative in interest and should ordinarily be afforded an opportunity to protect the interest acquired by him. In the light of the above discussions, it is crystal clear that Order 1 Rule 10 and Order 22 Rule 10 of CPC are distinct provisions, though they may occasionally overlap in their practical application. Any interest created during the pendency of the proceedings would in law be subjected to the doctrine of lis pendens and therefore subject to litigation. Such a person cannot insist on impleading as a matter of right under Order I Rule 10 of CPC. At best, they may seek permission under Order XXII Rule 10 of CPC to participate in the proceedings. Such transferee does not acquire an independent right to defeat the proceedings. The provision is founded on the doctrine of lis pendens under Section 52 of the Transfer of Property Act, 1882.

10. Coming to the facts of this case, the applicant is a pendente lite purchaser and as she has established a prima facie case of devolution of interest during the pendency of the

³ (1983) 1 SCC 18



proceedings, the Court has allowed the application. In the considered opinion of this Court, the applicant is entitled to be brought on record under Order 22 Rule 10 of CPC, subject to the condition that she shall take the proceedings as she finds them and shall remain bound by all acts, pleadings, and proceedings already undertaken by her transferor. In those circumstances, this Court do not find any reason to interfere. Hence, this Court is passing the following order:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. Appellate court is requested to dispose of the matter as expeditiously as possible.
- iii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE