



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R DEVDAS

WRIT PETITION NO. 3192 OF 2025 (KLR-RES)

BETWEEN:

SRI.K.M. MALLESH
S/O. LATE MALLEGOWDA,
AGED ABOUT 82 YEARS,
R/AT HEGGADDE POST AND VILLAGE,
HANUBALU HOBLI,
SAKLESH PURA TALUK-573 134.

...PETITIONER

(BY SRI. RAJARAMA SOORYAMBAIL, ADVOCATE)

AND:

1. THE ASSISTANT DIRECTOR OF
LAND RECORDS
SAKALESHAPURA TALUK,
HASSAN DISTRICT-573 134.
2. SRI. BASKAR VENKATASUBRAMANYAN
S/O. A.N.VENKATASUBRAMANYAN,
AGED ABOUT 54 YEARS,
R/AT YAMALURU MAIN ROAD,
IN FRONT OF OLD AIR PORT ROAD,
BANGALORE-560 037.
3. SMT. SHANTHI BASKAR
W/O. BASKAR VENKATASUBRAMANYAN,

Digitally signed
by JUANITA
THEJESWINI
Location: HIGH
COURT OF
KARNATAKA



AGED ABOUT 49 YEARS,
R/AT YAMALURU MAIN ROAD,
IN FRONT OF OLD AIR PORT ROAD,
BANGALORE-560 037.

4. SMT. MANJAMMA
W/O. LATE SANNAPPA @ SANNAPPAGOWDA,

SINCE DECEASED REPRESENTED
BY RESPONDENT NO.5

5. SMT. H. S. VARIJAKSHI
W/O. SIDDEGOWDA,
AGED ABOUT 60 YEARS,
R/AT HEGGADDE POST AND VILLAGE,
HANUBALU HOBLI,
SAKLESH PURA TALUK,
PRESENT ADDRESS
HIRIDANAHALLI VILLAGE,
HETHURU HOBLI,
SAKALESH PURA TALUK-573 134.

...RESPONDENTS

(BY SRI.SHAMANTH NAIK, HCGP FOR R-1;
SRI.V.KRISHNAMURTHY, FOR R-2, 3 AND 5)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
IMPUGNED NOTICE DATED 24.01.2025, ISSUED BY 1ST
RESPONDENT VIDE ANNEXURE AND ETC.

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



CORAM: HON'BLE MR. JUSTICE R DEVDAS

ORAL ORDER

The petitioner is aggrieved of the impugned notice at Annexure-A dated 24.01.2025 where the petitioner was called upon to be present on 06.02.2025 at 10.30 a.m. for conducting the durast in terms of the application filed by respondent Nos.2 and 3.

2. It is the contention of the petitioner that since the petitioner has filed O.S.No.56/2021 on the file of the learned Senior Civil Judge at Sakaleshpura seeking declaration of title and a decree of permanent injunction to restrain the defendants from interfering with the suit schedule property, the survey could not be conducted at that juncture.

3. However learned counsel for the contesting respondents submits that Annexure-C is an order passed by the Deputy Director of Land Records on 23.11.2020 quashing the earlier phodi proceedings where Sy.No.340



had been divided into Sy.No.340/1, 2, 3 and 4 and the divided properties are once again brought together by the said order. Learned counsel submits that the order was passed at the instance of the petitioner. However the respondents are ready and willing to have the survey conducted even in terms of the orders passed by the Deputy Director of Land Records. On the other hand although the petitioner is stating that he is aggrieved of the issuance of the impugned notice for survey, nevertheless the petitioner being the plaintiff has filed an application before the trial Court seeking appointment of a learned advocate as a Court Commissioner to conduct the survey. Learned counsel submits that an advocate will be incompetent to conduct these kind of survey which needs specialized skill. Learned counsel submits that the petitioner also does not dispute the fact that during the year 1976 under registered Partition Deed dated 17.03.1976 there was a family partition between Sri.Konakal Mallegowda and his 4 sons



Sri.K.M.Subbegowda, Sri.K.M.Sannappa @ Sannappagowda, Sri.K.M.Puttaswamy and Sri.Mallesha, i.e., the petitioner herein, where they divided Sy.No.340, which had a total extent of 29 acres 7 guntas including 1 acre 5 guntas of karab land and 10 acres were allotted to Sri.K.M.Sannappa @ Sannappagowda and the petitioner herein was allotted 14 acres 9 guntas. Respondent Nos.4 and 5 being the legal heirs of late Sri.K.M.Sannappa @ Sannappagowda sold the property which fell to the share of Sri.K.M.Sannappa @ Sannappagowda in favour of respondent Nos.2 and 3 under registered sale deed 14.12.2018.

4. Learned counsel submits that when respondent Nos.2 and 3 have purchased the property which fell to the share of Sri.K.M.Sannappa @ Sannappagowda, they started interfering with the property of the petitioner under the guise of them purchasing the property under the Registered Sale Deed dated 14.12.2018. At this juncture, at the instance of the petitioner the earlier phodi was



cancelled and all the four pieces of property have been merged in terms of the orders passed at Annexure-C. Nevertheless the respondent Nos.2 and 3 are ready and willing to have the survey conducted so that the property purchased by respondent Nos.2 and 3 can be identified in terms of the sale deed under which respondent Nos.2 and 3 purchased the property and at the same time the property retained by the petitioner can also be identified in the survey.

5. Learned counsel points out to paragraph No.11 of the statement of objections and submits that during the year 1970, a portion of the property in Sy.No.340 was acquired for the benefit of the railways. That part of the property which was acquired by the railways has also been noticed in the registered partition deed. Learned counsel submits that the petitioner is now trying to cause disturbance to the properties belonging to respondent Nos.2 and 3 under the guise of interference at the hands of respondent Nos.2 and 3 along with respondent Nos.4



and 5 and it is not the respondents who are trying to interfere with the land belonging to the petitioner. Nevertheless, Learned counsel submits that if a survey is conducted it will not prejudice the case of either of the parties.

6. Having heard the learned counsel for the petitioner, learned counsel for the contesting respondents, learned HCGP and on perusing the petition papers, this Court is of the considered opinion that having regard to the facts narrated hereinabove, no prejudice will be caused to the petitioner if the survey is conducted and the property purchased by respondent Nos.2 and 3 which had earlier fallen to the share of late Sri.K.M.Sannappa @ Sannappagowda is identified. In fact in order to enforce the order of temporary injunction secured by the petitioner-plaintiff restraining the defendants from interference of the suit schedule property, it would become necessary to identify the property belonging to the petitioner and the property belonging to respondent Nos.2



and 3 herein. The properties will have to be identified in terms of the description given in the registered partition deed dated 17.03.1976.

7. Consequently the writ petition stands ***disposed of*** permitting respondent No.1 to proceed to conduct the survey in terms of the impugned notice at Annexure-A. However notice to all the interested parties shall be given and in their presence the survey shall be conducted. It is made clear that this direction is issued only to enable respondent No.1 - Assistant Director of Land Records, Sakaleshpura Taluk to proceed to conduct the survey in terms of the impugned notice at Annexure-A and this Court has said nothing on the merits of the matter and the individual claims of the petitioner or the contesting respondents herein. For that purpose, respondent No.1 shall proceed to conduct the survey on 12.03.2026 at 11.00 a.m. The parties before the Court are directed to be present at the spot at the given date and time to enable



respondent No.1 to proceed to conduct the survey in terms of the impugned notice at Annexure-A.

Ordered accordingly.

In view of the above pending I.A.'s if any shall stand disposed of.

Sd/-
(R DEVDAS)
JUDGE

GPG