



CNR: KAHC010083802018

NC: 2026:KHC:52463
WP No. 28047 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 28047 OF 2018 (GM-CPC)

BETWEEN:

SMT. MEENAKSHI
AGED ABOUT 55 YEARS
W/O P Y MALLESH,
R/AT EDIGA BEEDI
PERIYAPATNA TOWN,
MYSURU DISTRICT - 571 107

...PETITIONER

(BY SRI. ROHITH GOWDA, ADVOCATE)

AND:

SRI. SYED KAREEM SAB S/O BUDAN SAB,
SINCE DECEASED BY HIS LRS

- 1A. RIZWAN BEGUM
W/O. LATE SYED KAREEM
AGED ABOUT 50 YEARS
- 1B. SYED AMANULLA
S/O. LATE SYED KAREEM
AGED ABOUT 32 YEARS
- 1C. SYED SANAULLA
S/O. SYED KAREEM
AGED ABOUT 30 YEARS





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- 1D. SYED SAMMRIN
S/O. LATE SYED KAREEM
AGED ABOUT 28 YEARS
- 1E. SYED AMREEN
S/O. LATE SYED KAREEM
AGED ABOUT 26 YEARS
ALL ARE R/AT MEDARA BLOCK
PERIYAPATNA TOWN AND TALUK
MYSURU DISTRICT - 571 107

AMENDMENT CARRIED OUT AS PER COURT ORDER
DATED 05.07.2023

...RESPONDENTS

(BY SRI. P.M. GOPI, ADVOCATE FOR
SRI. P.M. SIDDAMALLAPPA, ADVOCATE FOR R1(B) & R1(C)
VIDE ORDER DATED 02.08.2021,
NOTICE TO R1 (A, D AND E) IS H/S)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO-CALL FOR RECORDS IN
EX. PET NO.41/2012 AND SET ASSIDE THE ORDER DATED
04.06.2018, PASSED ON EXECUTION NO.41/2012 BEFORE THE
CIVIL JUDGE, JR. DVN AND JMFC AT PERIYAPATNA. WHICH IS
PRODUCED AT ANNEXURE-A AND CONSEQUENTLY TO ALLOW
THE APPLICATION FILED BY THE JDR NO.2.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM



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ORAL ORDER

The judgment debtor is before this Court assailing the order passed by the learned Executing Court, whereby the Executing Court, having recorded a finding that the present petitioner/judgment debtor No.2 had violated the decree of injunction, has ordered attachment of the properties held by the petitioner, subject to the decree holder furnishing particulars of the properties owned by the petitioner.

2. The matter was heard at length. Learned counsel appearing for the petitioner as well as learned counsel appearing for the respondents have addressed their respective arguments. During the course of hearing, this Court called upon learned counsel for the petitioner to place on record the judgment rendered in O.S.No.56/1994. Pursuant thereto a copy of the said judgment has been placed before the Court.

3. This Court has carefully perused the judgment rendered in O.S.No.56/1994 and has also examined the defence set up by the present petitioner in the said proceedings. The petitioner, while contesting the suit, had specifically disputed the location and identification of the suit



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property as well as its boundaries. The learned Trial Court, in paragraph Nos.19, 20 and 21 of its judgment, has exhaustively considered the contentions urged by the petitioner with regard to the location, identification and boundaries of the suit property and, upon consideration of the material on record, has rejected the said contentions. The suit was consequently decreed in favour of the respondent/decreed holder by granting a decree of perpetual injunction. Thus, the petitioner stands restrained by a decree of perpetual injunction passed in O.S.No.56/1994.

4. In the aforesaid backdrop, this Court put a pointed query to learned counsel for the petitioner as to whether, while contesting the execution proceedings in E.P.No.41/2012, the petitioner had once again raised the very contentions which had already been urged before and considered by the Trial Court in O.S.No.56/1994 and stood rejected while granting the decree of permanent injunction. Though learned counsel for the petitioner initially disputed the allegation of violation of the decree, a perusal of the reasons recorded by the learned Executing Court, particularly in paragraph Nos.10 and 11 of the



impugned order, makes it evident that the petitioner was, in substance, attempting to re-agitate and re-litigate the very same defence which had already been considered and rejected by the Trial Court while passing the decree of permanent injunction.

5. The learned Executing Court, having adverted to the stand taken by the petitioner in the execution proceedings and having found that the petitioner was seeking to reopen issues which already stood concluded by the decree in O.S.No.56/1994, recorded a finding that disobedience of the decree of injunction had been established. It was in consequence thereof that the Executing Court directed attachment of the properties held by the petitioner/judgment debtor No.2. The finding recorded by the Executing Court, therefore, was essentially founded upon the petitioner's attempt to set up, in execution, a defence which had already failed in the original suit.

6. In the course of hearing, this Court made it clear to the petitioner that no indulgence could be shown if the petitioner failed to abide by the decree of permanent injunction passed in



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O.S.No.56/1994. Having regard to the observations made by this Court on the previous date of hearing, learned counsel for the petitioner has today placed on record an affidavit sworn to by the petitioner. In paragraph No.3 of the said affidavit, the petitioner has categorically admitted the ownership of the respondent/decree holder over land bearing Sy.No.1/89, measuring 3 acres, situated at Mummadi Kaval Village, and has also admitted the boundaries of the suit schedule property.

7. The petitioner has, by way of the said affidavit, undertaken before this Court that he has not interfered with and shall hereafter not interfere with the peaceful possession and enjoyment of the respondent/decree holder over the property bearing Sy.No.1/89, measuring 3 acres, situated at Mummadi Kaval Village, with the boundaries set out in paragraph No.3 of the affidavit. The said undertaking, being unequivocal and categorical, is accepted and is made part of this order.

8. In view of the categorical undertaking furnished by the petitioner before this Court and having regard to the fact that the petitioner has now admitted the identity, boundaries and



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possession of the decree holder over the suit schedule property, this Court is of the considered view that the impugned order passed by the learned Executing Court need not survive. The petitioner shall, however, remain bound by the undertaking furnished before this Court and shall strictly abide by the decree of perpetual injunction granted in O.S.No.56/1994.

9. For the foregoing reasons, the following order is passed:

ORDER

- i. The writ petition is **disposed of**.
- ii. The affidavit filed by the petitioner before this Court is taken on record and shall form part and parcel of this order. Consequently, the order dated 04.06.2018 passed by the learned Civil Judge and JMFC, Periyapatna, in E.P.No.41/2012 is hereby quashed and set aside.



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iii. The petitioner/judgment debtor No.2 shall not, in any manner, interfere with the peaceful possession and enjoyment of the respondents/decreed holders over the suit schedule property bearing Sy.No.1/89, measuring 3 acres, situated at Mummadi Kaval Village, more particularly described by the boundaries set out in paragraph No.3 of the affidavit filed by the petitioner.

iv. The undertaking furnished by the petitioner before this Court shall be binding upon him and shall be treated as an undertaking to the Court.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**