



CNR: KAHC010084872021

NC: 2026:KHC:39545
W.P. No.4009/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 29TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.4009/2021 (GM-CPC)

BETWEEN:

SMT. LAKSHMAMMA
W/O THIMMARAYAPPA
AGED ABOUT 79 YEARS
AGRICULTURISRT
R/OF YEREMANCHANAHALLI VILLAGE
KASABA HOBLI, NELAMANGALA TALUK
BENGLAURU RURAL DISTRICT 563123.

REP. BY HER SPECIAL POWER OF
ATTORNEY HOLDER
RAJANNA S/O THIMMARAYAPPA
AGED ABOUT 48 YEARS
R/AT YERAMANCHANAHALLI VILLAGE
KASABA HOBLI, NELAMANGALA TALUK
BANGALORE RURAL DISTRICT 562123.

...PETITIONER

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA

(BY SRI. G. RAVISHANKAR, ADV., FOR
SRI. A.V. GANGADHARAPPA, ADV.,)

AND:

1. ANJANAPPA
S/O THIMMAIAH
AGED ABOUT 67 YEARS.

SINCE DEAD BY LRS

- 1A. SMT. GANGAMMA



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W/O LATE ANJANAPPA
AGED ABOUT 65 YEARS.

- 1B. MANJULA
D/O LATE ANJANAPPA
AGED ABOUT 40 YEARS

BOTH ARE PRESENTLY RESIDING AT NO.277
2ND STAGE, MUNISWAMAPPA EXTENTION
CHENNANAYAKANA PALYA
NAGASANDRA POST
BANGALORE NORTH TALUK
BENGALURU DISTRICT-560073.
(AMENDED VIDE ORDER DATED 6.7.2026)

2. THAMMAIAH
SON OF THIMMAIAH
AGED ABOUT 65 YEARS.

BOTH ARE PRESENTLY R/AT NO.277
2ND STAGE, MUNISWAMAPPA EXTENTION
CHENNANAYAKANA PALYA
NAGASANDRA POST
BANGALORE NORTH TALUK
BENGALURU 560073.

...RESPONDENTS

(BY SRI. C.V. SUDHINDRA, ADV., FOR R1(A & B) & R2)

THIS WP FILED PRAYING TO-CALL FOR THE RECORDS AND PROCEEDINGS OF THE CASEQUASH THE ORDER DATED 5.2.2021 PASSED BY THE COURT OF THE PRINCIPAL CIVIL JUDGE AND JMFC AT NELAMANGALA ON I.A.NO.III IN OS.NO.63/1996, CERTIFIED COPY OF WHICH IS PRODUCED AS ANNEXURE-F AND TO ALLOW THE I.A.NO.III FILED BY THE PETITIONER IN O.S.NO.63/1996 TRUE COPY OF WHICH IS PRODUCED AS ANNEXURE-DGRANT AN INTERIM ORDER TO STAY ALL FURTHER PROCEEDINGS IN O.S.NO.63/1996 PENDING IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND JMFC AT NELAMANGALAPOST THIS W.P. FOR PRELIMINARY HEARING BEFORE SINGLE JUDGE v DTD-23.02.2021.



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THIS PETITION, COMING ON FOR FINAL HEARING, 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 05.02.2021 passed on IA.No.3 in OS.No.63/1996 by the Principal Civil Judge and JMFC, Nelamangala (for short 'the trial Court').

2. Heard Sri.G.Ravishankar, learned counsel appearing for Sri.A.V.Gangadharappa, leaned counsel for the petitioner and Sri.C.V.Sudhindra, learned counsel appearing for the respondents and meticulously perused the material available on record.

3. The petitioner - Smt.Lakshmamma filed OS.No.63/1996 against the respondents seeking the relief of specific performance of the agreement to sell dated 16.01.1990. In the said suit, defendant No.2 filed a written statement contending that he had no objection to



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decree the suit. The original plaintiff - Smt.Lakshamma led the evidence. However, the said witness could not be cross-examined by the defendants, as they were placed *ex parte* and the trial Court decreed the suit as prayed for. The records indicate that the defendants preferred an appeal in RA.No.2/2010. The Appellate Court, set aside the judgment and decree passed by the trial Court, and remitted the matter back to the trial Court with a direction to provide an opportunity to both the parties to lead evidence and proceed with the suit. It is required to be noticed that, during the pendency of the appeal, the original plaintiff, who was the respondent therein, filed an application seeking permission to lead evidence through her Special Power of Attorney (SPA) holder, and the Appellate Court has permitted the same by allowing the said application. It is further to be noticed that after remand, the original plaintiff - Smt.Lakshamma, filed an application in the suit seeking permission to lead further evidence through her SPA holder in view of her personal



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incapacity. The said application was opposed by the defendants. The trial Court, under the impugned order dismissed the application.

4. It is also to be noticed that the evidence led by Smt.Lakshamma before remand was without the cross-examination by the defendants. Therefore, the petitioner cannot contend that SPA holder of the plaintiff would be available for cross-examination in place of the plaintiff. Such a course may not be correct, and the said prayer cannot be granted. It is open for the original plaintiff - Smt.Lakshamma to be available for cross-examination by the defendants' counsel and failing which, the consequences under law will follow. It is needless to observe that if the plaintiff intends to lead further evidence through her SPA holder independently, it is permissible under law, which can be allowed as fresh evidence. If the plaintiff intends to lead fresh evidence through her SPA holder, the trial Court shall permit the same without



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insisting upon the filing of a fresh application. With the aforesaid observations, I proceed to pass the following:

ORDER

The writ petition is ***dismissed*** upholding the order of the trial Court by permitting the SPA holder of the plaintiff to lead fresh evidence or alternatively it is also permitted for the original plaintiff to make herself available for cross-examination.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 21