



CNR: KAHC010184452023

NC: 2026:KHC:40578
WP No. 8344 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 8344 OF 2023 (GM-RES)

BETWEEN:

SMT. SHOBHA K.B
W/O LATE SHADAKSHARI D.B,
AGED ABOUT 41 YEARS, TEACHER
R/A NO.111/84
SRI MARULASIDESHWARA NILAYA
SHYAMA BADAVANE, NITTUVALI
NEAR SIDDESHWARA MILL,
DAVANAGERE CITY.

...PETITIONER

(BY SRI. M.R. HIEMATHAD, ADVOCATE)

AND:

1. SRI. BHARMAPPA D.K
S/O LATE NANJAPPA D.K
AGED ABOUT 77 YEARS
2. SMT. GOWRAMMA
W/O SRI. BHARMAPPA D.K
AGED ABOUT 73 YEARS

BOTH ARE R/AT SUNKADAKATTE VILLAGE
HONNALI TALUK,
DAVANAGERE DISTRICT - 577 217.

Digitally signed
by SUMA B N
Location:
HIGH COURT
OF
KARNATAKA



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3. SMT. SUDHA
D/O SRI. BHARMAPPA D.K
W/O VEERANNA BANAKAR
AGED ABOUT 49 YEARS
R/A PRABHAVATI SPRING
G-8, ELECTRONIC CITY
ANANT NAGARA, 7TH CROSS
OPPOSITE DARSHINI ANIKETANA APARTMENT
BENGALURU - 560 100.
4. SRI. MAHENDRA D.B
S/O SRI. BHARMAPPA D.K
AGED ABOUT 46 YEARS
R/A SUNKADAKATTE VILLAGE
HONNALI TALUK
DAVANAGERE DISTRICT - 577 217.
5. THE ASSISTANT COMMISSIONER
CUM PRESIDING OFFICER
THE TRIBUNAL FOR MAINTENANCE
AND WELARE OF SENIOR CITIZENS
AND PARENTS, HONNALI - 577 001.

...RESPONDENTS

(BY SRI. P.N. HARISH, ADVOCATE FOR C/R1;
SRI. M. SRINIVAS KUMAR, HCGP FOR R5
R2, R3 AND R4 ARE SERVED AND UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO CALL FOR
RECORDS FROM THE FILE OF R-5 IN RESPECT OF THE
PROCEEDINGS DTD 08.03.2023. QUASHING THE ORDER DTD
08.03.2023 PASSED BY THE R-5 I.E THE ASST.
COMMISSIONER HONNALI, PRODUCED AT ANNEX-A AND ETC.,



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

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

1. Petitioner, who is the daughter in law of respondent Nos.1 and 2 is before this Court, being aggrieved by the order dated 08.03.2023 passed by respondent No.5- Assistant Commissioner cum Presiding Officer as per Annexure-A, in terms of which, respondent No.5- Assistant Commissioner has cancelled a registered deed of partition dated 27.11.2014.
2. Brief facts of the case:

Husband of the petitioner named Shadakshari D.B and respondent Nos.3 and 4 herein are the children of respondent Nos.1 and 2. That a deed of partition dated 27.11.2014 came to be registered amongst them partitioning the ancestral joint family properties. In terms of the said partition, land measuring 1 acre 27 guntas in Sy.No.52/4, 1 acre 35 guntas in Sy.No.52/5 was allotted to the share of husband of the petitioner. Similarly



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respondent Nos. 1 to 4 have also been allotted their respective shares. Name of the husband of the petitioner was mutated in the revenue records in the year 2015-16. Husband of the petitioner passed away on 31.12.2015 leaving behind the petitioner as his legal heir. There upon petitioner had approached the revenue authorities during October-2020, seeking mutation of her name in the revenue records. Accordingly, her name was mutated in respect of the aforesaid land in Sy.No.52/4 and 52/5. Things stood thus respondent Nos.1 and 2 in collusion with respondent Nos.3 and 4 allegedly filed petition before respondent No.5 - Assistant Commissioner, invoking the Provisions of Maintenance and Welfare of Senior Citizens and Parents Act, 2007 (for short 'the Act'). Objection statements were filed by the petitioner herein. Without considering the facts and the applicable law, respondent No.5 - Assistant Commissioner proceeded to pass the impugned order, cancelling the registered deed of partition. Aggrieved by the same, petitioner is before this Court.



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3. Learned counsel for the petitioner, taking this Court through the records submits that, respondent No.5- Assistant Commissioner has no jurisdiction and power under the Act to cancel the deed of partition. That there is no case made out by respondent Nos. 1 and 2 requiring grant of any relief either under Sections 4 and 5 of the Act or under Section 23 of the Act. Respondent No.5 - Assistant Commissioner also has failed to appreciate that in terms of the said deed of partition even respondent Nos. 1 to 4 have also been given their share in the property. As such, there was no requirement of providing any maintenance either. Hence, seeks for allowing the petition.
4. On the other hand, learned counsel appearing of respondent No.1 justifying the order passed by respondent No.5 - Assistant Commissioner submits that, upon the demise of husband of the petitioner, the petitioner has completely neglected to provide maintenance and respondent Nos. 1 and 2 being aged above 75 years are not in a position to cultivate and look



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after themselves. Therefore, respondent No.5 - Assistant Commissioner was justified in allowing the application, cancelling the deed of partition.

5. Heard and perused the records.
6. The co-ordinate bench of this Court in the case of ***Sri.Nanjundappa and Others v/s State of Karnataka and Others in WP No.36601/2017 and 42708-709/2017 C/W 21447/2017*** as held that the Assistant Commissioner has no jurisdiction to cancel the registered partition deed in exercise of the power under Section 23 of the Act, which has been followed by this Court in ***WP No. 20115 of 2021***. Since, the issue now stands covered with regard to legality or otherwise of the power exercised by the Assistant Commissioner in cancelling the partition deed, which is the case at hand, impugned order dated 08.03.2023 at Annexure-A, cancelling the partition deed therefore, stands quashed.
7. As regards the question of maintenance is concerned, counsel for the petitioner submits that, respondent Nos. 3 and 4, who are the daughter and the son respectively of



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respondent Nos. 1 and 2 are well placed. Besides, they also have been allotted property in the said partition and maintenance, if any, can be sought for by respondent Nos.1 and 2 as against them.

8. Keeping open option for respondent Nos.1 and 2 to seek maintenance, if required, against respondent Nos. 3 and 4, petition stands ***disposed of.***

**SD/-
(M.G.S. KAMAL)
JUDGE**

SPV
List No.: 1 SI No.: 7