



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 9236 OF 2025 (GM-CPC)

BETWEEN:

SMT MADDURAMMA
W/O CHIKANNA
AGED ABOUT 63 YEARS
R/AT NO. 1014, NEW NO. 61
2ND MAIN, M C LAYOUT
MAGADI MAIN ROAD
WEST OF CHORD ROAD
VIJAYANAGAR WARD NO. 36
BENGALURU 560 040.

...PETITIONER

(BY SRI. SUSHANTH V A., ADVOCATE)

AND:

1. SRI NAGAPPA
S/O LATE BASAPPA
AGED ABOUT 70 YEARS
REP. BY SPA HOLDER
SMT B N YASHODHA
W/O NANDISH KUMAR
D/O B NAGAPPA
BOTH R/AT NO. 37, 1ST B MAIN ROAD
7TH CROSS, MUKAMBIKANAGAR
HOSAKEREHALLI, BENGALURU-560 085.
2. SMT GOWRAMMA
W/O B S SUDIR
AGED ABOUT 55 YEARS
R/AT NO. 421, 6TH CROSS

Digitally signed by
DHANALAKSHMI
MURTHY

Location: HIGH
COURT OF
KARNATAKA



OPP OM SHAKTHI TEMPLE
ULLAL UPANAGAR
BENGALURU 560 110.

3. SMT NIRMALA
W/O PUTTASWAMY
AGED ABOUT 54 YEARS
R/AT NO. 1014, NEW NO. 61
2ND MAIN M C LAYOUT
MAGADI MAIN ROAD,
WEST OF CHORD ROAD
VIJAYANAGAR, WARD NO. 36
BENGALURU - 560 040.
4. BASAVARAJU
S/O LATE BASAPPA
AGED ABOUT 58 YEARS
R/AT 421, 6TH CROSS
OPP OM SHAKTHI TEMPLE
ULLAL UPANAGARA
BENGALURU 560 110
5. SRI PRAKASH
S/O LATE BASAPPA
AGED ABOUT 50 YEARS
R/AT NO. 46 AND 47, 2ND MAIN ROAD
4TH CROSS, SAI BABA MANDIR ROAD
KAMAKSHIPALYA EXTENSION
BENGALURU - 560 079.

...RESPONDENTS

(BY SRI. LOKESH C., ADVOCATE FOR R1:
SRI C ANANTHA KUMAR, ADVOCATE FOR R2:
SRI M NARAYANAPPA, ADVOCATE FOR R3:
SRI. CHETAN, ADVOCATE FOR R5:
R4 IS SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE
A WRIT OF CERTIORARI OR A WRIT OF ANY OTHER NATURE OR
DESCRIPTION TO ALLOW THE SAID APPLICATION MADE
UNDER SECTION 3 OF THE PARTITION ACT, 1893 READ WITH



SECTION 151 OF THE CPC DATED 22-MAR-2025 (ANNEXURE D) BY QUASHING THE ORDER PASSED BY THE HONBLE XXXV ADDITIONAL CITY CIVIL JUDGE, BENGALURU (CCH-36) IN FDP NO.121 OF 2019 ARISING OUT OF OS NO.3229 OF 2018 ON 22-MAR-2025 (ANNEXURE E) REJECTING THE SAME APPLICATION, IN ORDER TO PREVENT A GRAVE MISCARRIAGE OF JUSTICE AND ETC.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed under Articles 226 and 227 of the Constitution of India, challenging the order dated 22.03.2025, whereby the petitioner's application filed under Section 3 of the Partition Act, 1893 r/w. Section 151 of Civil Procedure Code has been dismissed.

2. Respondent No.1 herein, who is the plaintiff in O.S.No.3229/2018, filed a suit for partition and separate possession. The suit came to be decreed, and a preliminary decree was passed on 10.07.2019. Thereafter, Final Decree Proceedings were initiated in F.D.P. No. 121/2019. The Final Decree Court came to the conclusion that the suit schedule property could not be partitioned by



metes and bounds and decided to conduct a public auction.

3. The petitioner herein challenged the same before this Court in W.P.No.20587/2024 on the ground that the procedure prescribed under Rules 138, 139, and 140 of the Karnataka Civil Rules of Practice, 1967 had not been followed by the Final Decree Court. The said writ petition was disposed of on 14.11.2024, directing the Final Decree Court to conduct the public auction in accordance with law. The petitioner herein was also permitted to participate in the auction subject to filing of an appropriate application for the same.

4. Thereafter, the petitioner filed an application under Section 3 of the Partition Act. The said application came to be dismissed. Being aggrieved by the same, the petitioner is before this Court.

5. Learned counsel appearing for the petitioner submits that, as per Section 3 of the Partition Act, the



Court has to give first preference to the shareholders to purchase the concerned property. Even if two or more shareholders severally apply for leave to purchase the property, the person who offers to pay the highest price has to be permitted to do so. Therefore, it is the case of the petitioner that contrary to Section 3 of the Partition Act, the application filed by the petitioner has been dismissed.

6. He further submits that the petitioner is also one of the shareholders of the property in question and that she has the right to offer the highest price, i.e., more than the price quoted by the second respondent. Hence, he seeks to allow the writ petition.

7. The learned counsel appearing for the second respondent submits that this Court, in the earlier round of litigation in W.P.No.20587/2024, directed the Final Decree Court to conduct a public auction in compliance with the procedure prescribed under Rules 138, 139, and 140 of



the Karnataka Civil Rules of Practice, 1967. Accordingly, the auction has been conducted. The highest bidder is none other than one of the family members, i.e., respondent No.2. Hence, he seeks dismissal of the writ petition.

8. Heard the learned counsel for the parties and perused the writ petition papers.

9. In the final decree proceedings, the Final Decree Court conducted a public auction of the property on the ground that the suit schedule property could not be divided among the shareholders by metes and bounds. In the meanwhile the public auction was conducted. At that stage, petitioner herein filed IA No.5 under Section 151 of CPC for a direction to sell the suit schedule property in favour of the petitioner herein. On 27.03.2024 the application filed by the petitioner was dismissed by the Final Decree Court. The was challenged by the petitioner before this Court in W.P.No.20587/2024. This Court, by



order dated 14.11.2024, set aside the auction and directed the Final Decree Court to proceed in accordance with law. The relevant portion of the order is extracted below:

"9. It is needless to mention that the Court shall comply with the procedure prescribed under Rule 138, 139 and 140 of Karnataka Civil Rules of Practice, 1967. Now that the auction in favour of the auction purchaser is not finalized, the Final Decree Court is directed to refund the amount deposited by the auction purchaser. The Final Decree Court shall proceed in accordance with law and conclude the same as early as possible at any rate within a period of four months from the date of receipt of a certified copy of this order.

10. It is open for the petitioner to file an appropriate application before the Final Decree Court seeking permission to participate in the auction."

10. Thereafter, the petitioner filed an application under Section 3 of the Partition Act. Since the said application was dismissed by the trial Court, she has approached this Court by filing the present writ petition.



11. This Court, by order dated 28.03.2025, granted an interim order staying confirmation of the sale in favour of the successful bidder until the next date of hearing. Thereafter, the auction was conducted on 20.06.2025. On that day, there was only one bidder, namely, the second respondent herein, and he purchased the property for Rs. 90,00,000/-. Since the petitioner had called into question the order dated 22.03.2025 passed by the trial Court rejecting his application, he did not participate in the auction proceedings.

12. At this juncture, it is relevant to extract Section 3 of the Partition Act, which reads as follows:

"3. Procedure when sharer undertakes to buy.—(1) If, in any case in which the court is requested under the last foregoing section to direct a sale, any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the court shall order a valuation of the share or shares in such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may



give all necessary and proper directions in that behalf.

(2) If two or more shareholders severally apply for leave to buy as provided in sub-section (1), the court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the court.

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications."

13. From a reading of the aforesaid Section 3 of the Partition Act, it is clear that if two or more shareholders apply for leave to purchase the property, the shareholder who offers to pay the highest price above the valuation made by the Court may be permitted to purchase the property.

14. Since, in the public auction, only the second respondent herein, who is also one of the shareholders,



participated, and since the petitioner did not participate in the bid, an opportunity must be given to both parties.

15. In view of the above and in the interest of justice, the following order is passed:

- (i) The writ petition stands disposed of.
- (ii) The earlier public auction is set aside.
- (iii) The parties are directed to appear before the Final Decree Court on 16.03.2026. On that day, the court auction may be conducted.
- (iv) The Final Decree Court is directed to permit the petitioner and the second respondent herein to participate in the bid and to confirm the sale in favour of the person who offers the highest bid.
- (v) If the petitioner is not present on that day, and she has not given any offer, the higher offer by the second respondent has to be confirmed. In the event the petitioner



participates in the bid and offers the highest price and the sale is confirmed in his favour, she has to deposit the amount within one week from that day, including the interest at 9% per annum to the second respondent on the amount deposited by her pursuant to the earlier public auction, calculated from the date of deposit until the date the amount is released in favour of the second respondent.

- (vi) If any party fails to participate in the public auction, they will forfeit their right.

**Sd/-
(H.T. NARENDRA PRASAD)
JUDGE**

CM
LIST NO.: 1 SL NO.: 53