



CNR: KAHC010213542019

NC: 2026:KHC:54713
WP No. 27933 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.27933 OF 2019 (GM-CPC)

BETWEEN:

M.RAMACHANDRA
S/O LATE K.V. MUNIYAPPA
AGED ABOUT 71 YEARS

SINCE DEAD BY HIS LRS
PETITIONER NOS.2 AND 3

2. SMT.S.SUSHEELA DEVI
W/O M.RAMACHANDRA
AGED ABOUT 66 YEARS

3. NANDINI RAMACHANDRA
D/O M.RAMACHANDRA
AGED ABOUT 35 YEARS

ALL RESIDING AT NO.690
'SRI.MAHALAXMI', SVT ROAD
DEVASANDRA, BENGALURU - 560 036
AND PRESENTLY AT SRI.VIJAYA GANAPATHY
RESIDENCY, IN SY. NO.3, K.V.MUNIYAPPA
GARDEN, K.R.PURAM
BENGALURU - 560 036

...PETITIONERS

(BY SRI. CHANDAN S RAO, ADVOCATE)

AND:

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1. SMT.PUTTAMMA
W/O LATE N. MANGARAJ
AGED ABOUT 80 YEARS
2. M.JAYACHANDRA PRAKASH
S/O LATE N.MANGARAJ
AGED ABOUT 61 YEARS
3. S.N.PRAKASH
S/O LATE N. MANGARAJ
AGED ABOUT 51 YEARS

ALL RESPONDENTS ARE
RESIDING AT NO.75/2
I FLOOR, NEW BAZAAR STREET
K.R.PURAM, BENGALURU - 560 036

AND RESPONDENT NOS.2 AND 3
PRESENTLY RESIDING IN LAYOUT IN
SY.NO.6/2 OF K.R.PURAM
BENGALURU - 560 036

...RESPONDENTS

(BY SRI.JANARDHANA G, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED
ORDER DATED 11.6.2019 PASSED BY XXIV ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE, BENGALURU (CCH-6) IN O.S.NO.4047/2007
(PRODUCED AS ANNEXURE-M REJECTING THE I.A.NOS.16, 19)
FILED BY THE PETITIONERS AND FURTHER BE PLEASED TO
ALLOW THE SAID I.A.S AND ETC.,

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THIS PETITION, COMING ON FOR PRELIMINARY HEARING –
B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Captioned writ petition is filed by the plaintiffs calling in question the common order dated 11.06.2019 passed by the learned Judge on I.A.Nos.16 to 19 in O.S.No.4047/2007, produced at Annexure-M.

2. The facts leading to the filing of the present writ petition, in brief, are as follows:

The petitioners, who are the legal heirs of late K.V.Muniyappa, have instituted O.S.No.4047/2007 questioning the Gift Deed executed by K.V.Muniyappa in favour of his sister, who is arrayed as defendant No.1, under registered Gift Deed dated 08.01.1973. After the demise of K.V.Muniyappa, the plaintiffs instituted the aforesaid suit seeking a declaration that the Gift Deed dated 08.01.1973 executed in favour of defendant No.1 is

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illegal, void and not binding on them. In the alternative, the plaintiffs have sought a declaration that they have perfected their title over the suit schedule property by way of adverse possession.

3. Defendants entered appearance and filed their written statement, stoutly denying the averments made in the plaint. On the basis of the rival pleadings, the learned Trial Court framed the issues. Both parties thereafter led oral and documentary evidence in support of their respective contentions.

4. When the matter was posted for arguments, the plaintiffs filed I.A.Nos.16 and 19. I.A.No.16 was filed seeking issuance of summons to an Income Tax Officer for the purpose of adducing evidence. I.A.No.19 was filed seeking reference of the admitted signatures of D.W.1 found in the written statement, vakalathnama and affidavits filed in support of the interlocutory applications



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for comparison with the disputed handwriting/signatures found in Exs.P.65 to P.71 and P.88.

5. Defendants, in turn, filed I.A.Nos.17 and 18 seeking reopening of their evidence and permission to examine additional witnesses on their behalf, namely, the legal heir of one of the attesting witnesses to the Gift Deed.

6. The learned Trial Judge, by the impugned common order, rejected I.A.Nos.16 and 19 filed by the plaintiffs, while allowing I.A.Nos.17 and 18 filed by the defendants. Being aggrieved by the said order, the plaintiffs are before this Court.

7. Learned counsel appearing for the petitioners would reiterate the grounds urged in the writ petition and contend that the learned Trial Judge has not assigned any cogent reasons while rejecting I.A.Nos.16 and 19. He would further contend that delay appears to have been the principal consideration for rejecting the applications filed



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by the plaintiffs. It is his further submission that the applications filed by the defendants were also filed at the stage of arguments and subsequent to the applications filed by the plaintiffs and, nevertheless, the learned Trial Judge has entertained the same and, by cryptic orders, allowed I.A.Nos.17 and 18. He would therefore contend that the impugned order suffers from perversity and warrants interference at the hands of this Court.

8. *Per-contra*, learned counsel appearing for the defendants would submit that I.A.No.16 filed by the plaintiffs is wholly vague and that no reason is forthcoming as to why the presence of the Income Tax Officer is sought to be secured by issuance of witness summons. He would further contend that the prayer sought in I.A.No.19 is equally ambiguous and that the affidavit filed in support of the said application does not disclose the relevance of comparing the admitted signatures of D.W.1 with the

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disputed handwriting/signatures found in Exs.P.65 to P.71 and P.88.

9. Insofar as I.A.Nos.17 and 18 are concerned, learned counsel would submit that the Gift Deed is of the year 1973 and, since its validity is under challenge in the suit, the defendants, by way of abundant caution, sought reopening of their evidence to a limited extent, namely, to examine the legal heir of one of the attesting witnesses to the Gift Deed. He would therefore submit that the discretion exercised by the learned Trial Judge does not call for interference.

10. Heard the learned counsel for the parties and perused the material on record.

11. At the outset, it would be appropriate to notice the nature of the relief sought by the plaintiffs in the suit. The prayer in the plaint reads as under:

"Wherefore, the plaintiffs pray that this Hon'ble Court be pleased to pass a judgment and decree that the

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Gift Deed dated 08.01.1973 in the name of the first defendant is illegal, void and not binding on the plaintiffs, alternately declare that the plaintiffs have perfected their title to the schedule property by being in continuous possession of the same beyond the period of prescription, and consequential relief of permanent injunction restraining the Defendants, their agents, assigns, workmen or any person/s from interfering with the peaceful possession and enjoyment of the schedule property by the plaintiffs and to pay the costs of this suit to the plaintiffs to meet the ends of justice."

12. It would be apposite for this Court to extract the issues framed by the Trial Court, which reads as under;

"1. Whether plaintiffs prove that the Gift Deed dated 08.01.1973 in the name of defendant No.1 is illegal, void and not binding on them?

2. Whether the plaintiffs prove that they are in possession of suit schedule property?

3. Whether plaintiffs prove that they perfected their title by virtue of adverse possession?

4. Whether plaintiffs prove the interference of the defendants?

5. Whether suit is properly valued and court fee paid is sufficient?

6. Whether suit is barred by limitation?



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7. What order or decree?"

13. A conjoint reading of the relief sought in the plaint and the issues framed by the learned Trial Court makes it evident that the principal relief sought by the plaintiffs is a declaration that the Gift Deed dated 08.01.1973 executed by K.V.Muniyappa in favour of defendant No.1 is illegal, void and not binding on them. The plea of adverse possession has been set up only in the alternative.

14. The determination of the validity and binding nature of the Gift Deed therefore constitutes the core controversy between the parties. The plaintiffs, who seek to avoid the effect of the registered Gift Deed dated 08.01.1973, are required to establish their case in accordance with law. It is in this backdrop that the necessity and relevance of the additional evidence sought to be introduced by the plaintiffs through I.A.Nos.16 and 19 have to be examined.

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15. Insofar as I.A.No.16 is concerned, the plaintiffs seek to summon an Income Tax Officer for the purpose of adducing evidence. However, neither the application nor the affidavit filed in support thereof discloses the relevance of the proposed evidence to the principal issue concerning the validity and binding nature of the Gift Deed dated 08.01.1973. Even before this Court, learned counsel for the petitioners is unable to demonstrate as to how the proposed evidence of the Income Tax Officer would have any bearing upon the adjudication of the principal controversy in the suit.

16. In the absence of any foundational pleading or material demonstrating the relevancy of the proposed evidence, the learned Trial Judge was justified in declining to entertain I.A.No.16. The mere fact that an application is filed before conclusion of the proceedings cannot, by itself, confer a right on a party to summon a witness whose

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proposed evidence has no demonstrated nexus with the issues requiring adjudication.

17. The same reasoning would apply, with greater force, to I.A.No.19. The plaintiffs seek comparison of the admitted signatures of D.W.1 found in the written statement, vakalathnama and affidavits with the disputed handwriting/signatures appearing in Exs.P.65 to P.71 and P.88. However, the affidavit filed in support of the said application does not explain the relevance of the proposed comparison to the principal issue concerning the validity of the Gift Deed dated 08.01.1973.

18. Significantly, the plaintiffs have also not placed before this Court any material demonstrating as to how the disputed signatures appearing in Exs.P.65 to P.71 and P.88 have any bearing upon the execution, validity or binding nature of the Gift Deed which is the subject matter of challenge in the suit.

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19. The contention of the petitioners that the learned Trial Judge has rejected I.A.Nos.16 and 19 without assigning reasons cannot, therefore, be accepted. Though the reasons assigned by the learned Trial Judge may be brief, the rejection of the applications is otherwise justified having regard to the nature of the relief sought in the suit and the absence of any demonstrated relevancy of the additional evidence sought to be introduced.

20. This Court, exercising jurisdiction under Article 227 of the Constitution of India, would not interfere with every interlocutory order passed by the Trial Court unless the exercise of discretion is shown to be arbitrary, perverse or contrary to the settled principles governing such discretion. In the present case, no such jurisdictional error is demonstrated.

21. The challenge, however, stands on a somewhat different footing insofar as I.A.Nos.17 and 18 filed by the defendants are concerned. The defendants have sought



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reopening of their evidence to a limited extent, namely, for examining the legal heir of one of the attesting witnesses to the Gift Deed dated 08.01.1973.

22. The Gift Deed is admittedly of the year 1973 and its execution and validity constitute the central controversy in the suit. Though the initial burden of establishing the relief claimed by the plaintiffs rests upon them, the defendants cannot be deprived of a reasonable opportunity to place limited rebuttal evidence concerning the execution of the very document whose validity is under challenge.

23. The discretion exercised by the learned Trial Judge in allowing I.A.Nos.17 and 18 is therefore required to be viewed in the context of the nature of the document under challenge and the limited nature of the evidence sought to be adduced. The defendants have not sought to introduce an entirely new case or to reopen their evidence for an indefinite purpose. The permission granted is

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confined to examining the legal heir of one of the attesting witnesses to the Gift Deed.

24. In these circumstances, the learned Trial Judge, in the considered opinion of this Court, has exercised the discretion in a manner intended to afford a reasonable opportunity to the defendants to meet the challenge to the Gift Deed. Such exercise of discretion cannot be said to cause any prejudice to the plaintiffs which cannot be addressed in the course of the trial.

25. The grievance of the petitioners that the applications filed by the defendants were also filed at the stage of arguments and subsequent to the applications filed by the plaintiffs, and therefore ought to have been treated on the same footing, cannot be accepted as a matter of course. The question before the Court is not merely the stage at which an application is filed, but whether the evidence sought to be introduced is relevant and necessary for a proper adjudication of the dispute and



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whether permitting such evidence would cause prejudice which cannot otherwise be compensated.

26. In the present case, the learned Trial Judge has found the proposed evidence of the defendants to be relevant to the execution of the Gift Deed, whereas the plaintiffs have failed to establish the relevance of the evidence sought to be introduced through I.A.Nos.16 and 19. Therefore, the two sets of applications cannot be placed on the same footing merely because they were filed at the stage of arguments.

27. This Court also finds considerable force in the submission of the defendants that the plaintiffs have not disclosed, either before the learned Trial Court or before this Court, any convincing reason explaining the necessity for filing I.A.Nos.16 and 19 at such a belated stage. The proceedings relate to a suit instituted in the year 2007 and the parties have already completed their evidence. The

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applications have been filed when the matter was posted for arguments.

28. While delay by itself may not always be determinative, where an application is filed at a belated stage and the party seeking additional evidence fails to demonstrate its relevancy or necessity, the Trial Court would be justified in declining such a request.

29. Viewed from this perspective, this Court is of the opinion that the impugned common order does not suffer from any perversity or jurisdictional error warranting interference under Article 227 of the Constitution of India. The learned Trial Judge has rightly declined the applications filed by the plaintiffs in I.A.Nos.16 and 19 and has, on the other hand, exercised discretion in favour of the defendants only to the limited extent of permitting them to examine the legal heir of one of the attesting witnesses to the Gift Deed.

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30. It is also necessary to take note of the fact that the suit is of the year 2007 and, as noticed from the proceedings, the hearing of the suit has remained stalled for a considerable period. The learned Trial Court shall therefore ensure that the proceedings are not further prolonged on account of interlocutory applications and shall proceed with the trial and conclude the same expeditiously, preferably within a reasonable time, subject to the cooperation of the parties.

31. It is made clear that the observations contained in this order are confined solely to the consideration of the interlocutory applications and shall not, in any manner, influence the learned Trial Court while adjudicating the suit on its merits. All contentions of the parties are left open for consideration by the learned Trial Court in accordance with law.

For the foregoing reasons, the writ petition stands ***dismissed.***

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No order as to costs.

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(SACHIN SHANKAR MAGADUM)
JUDGE