



CNR: KAHC010228482026

NC: 2026:KHC:49084
RP No. 160 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

REVIEW PETITION NO. 160 OF 2026

BETWEEN:

SMT L NAGARATHNA
W/O SRI. ESWARAPPA,
AGED ABOUT 70 YEARS,
R/AT 3RD CROSS, DURGIGUDI,
HONNALI - 577 217
DAVANAGERE DISTRICT.

...PETITIONER

(BY SRI. JWALA KUMAR, ADVOCATE)

AND:

MR DANI C N
S/O NAGARAJ,
AGED ABOUT 43 YEARS,
R/AT HOYSALA STREET,
NEHRU NAGAR, BELUR
HASSAN - 573 115.

...RESPONDENT

(BY SRI. S. RAJ PRABHU, ADVOCATE)

THIS REVIEW PETITION FILED UNDER SECTION.114 R/W ORDER
47 RULE 1 OF CPC 1908, PRAYING TO REVIEW OF ITS JUDGMENT
DATED 09.02.2026, PASSED IN WP NO. 35269/2024, TO REVIEW / SET
ASIDE IT IN THE JUSTICE AND EQUITY.

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

Digitally
signed by
VANDANA S
Location:
High Court
of Karnataka



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CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

This petition takes an exception to the final order dated 09.02.2026, whereby this Court disposed of W.P.No.35269/2024 as hereunder;

In this petition, petitioner seeks the following reliefs:

- "a). Issue a writ of certiorari to quash Annexure-F i.e., the impugned order dated 21.12.2024 on passed I.A.No.3 filed under Order 26 Rule 9 of CPC passed by the Hon'ble Senior Civil Judge and JMFC, Belur in O.S.No.107/2024;*
- b). Grant such other as this Hon'ble court deems fit to grant in the facts and circumstances of the case.'*

2. This petition by the defendant in O.S.No.107/2024 on the file of the Senior Civil Judge, Belur is directed against the impugned order dated 20.12.2024 whereby the interlocutory application No.4 filed by the respondent/plaintiff under Order XXVI Rule 9 of Code of Civil Procedure, 1908 for appointment of Court Commissioner to conduct local inspection and to submit a report was allowed by the Trial Court.

3. Heard the learned counsel for the petitioner/defendant and learned counsel for the respondent/plaintiff and perused the material on record.



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4. *A perusal of the material on record will indicate that the respondent/plaintiff instituted the aforesaid suit against the petitioner/defendant for declaration and possession in respect of the suit Schedule 'B' property. The said suit is being contested by the petitioner/defendant. Prior to settlement/framing of issues, the respondent/plaintiff filed the instant application, seeking appointment of a Court Commissioner, inter alia contending that the petitioner was putting up illegal and un-authorised construction on the suit schedule 'B' property and the Court Commissioner is required to be appointed before the Trial Court to proceed further in the matter.*

5. *The said application having been opposed by the petitioner/defendant, the Trial Court proceeded to pass the impugned order, allowing the application.*

6. *Aggrieved by the same, the petitioner/defendant is before this Court by way of the present petition.*

7. *Learned counsel for the petitioner/defendant on instruction submits that the construction of the building in the suit schedule property on the exterior is completed and no further construction would be put up by the petitioner except completing the interiors of the building and as such the impugned order passed by the trial Court may be set aside and the matter be remitted back to the Trial Court for reconsideration of I.A.No.3 afresh in accordance with law after completion of evidence of both sides.*



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8. *Per contra, learned counsel for the respondent/plaintiff submits that the impugned order may be set aside and the matter be remitted back to the Trial Court for reconsideration afresh in accordance with law by reserving liberty in favour of the respondent to file appropriate application before the Trial Court seeking appropriate reliefs with a direction to the Trial Court to consider the pending application filed by the respondent/plaintiff in accordance with law.*

9. *In view of the aforesaid factual circumstances, I deem it just and appropriate to set aside the impugned order and remit the matter back to the Trial Court for reconsideration of I.A.No.3 afresh and in accordance with law.*

10. *Accordingly, the following:*

ORDER

(i) *Writ Petition is hereby **allowed**.*

(ii) *Impugned order passed by the learned Senior Civil Judge and JMFC., Belur in O.S.No.107/2024 on I.A.No.3 is hereby set aside.*

(iii) *The matter is remitted back to the trial Court for reconsideration of I.A.No.3 afresh and in accordance with law.*

(iv) *The Trial Court shall also dispose of the injunction application filed by the respondent/plaintiff after hearing both sides and in accordance with law as expeditiously as possible.*



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2. Learned counsel for the review petitioner submits that despite this Court remitting the matter back to the trial court for consideration of I.A.No.3 afresh, the trial court has sofar not disposed of the said application in the suit, which presently stands posted to 08.10.2026. It is therefore submitted that the present review petition may be disposed of directing the trial court to dispose of I.A.No.3 as directed by this Court in the aforesaid impugned order dated 09.02.2026 as expeditiously as possible. The said submission is placed on record.

3. Accordingly, the review petition stands disposed of without interfering with the impugned order but by directing the trial court to reconsider and dispose of I.A.No.3 afresh as directed in the aforesaid final order dated 09.02.2026 passed by this Court in W.P.No.35269/2024, within a period of one month from **08.10.2026**. All rival contentions between the parties are kept open and no opinion is expressed on the same.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

Srl.