



CNR: KAHC010230222026

NC: 2026:KHC:43078
WP No. 10497 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 10497 OF 2026 (GM-CPC)

BETWEEN:

SRI THIMMAIAH SINCE DEAD BY LRS
SINCE DEAD BY LRS

1. SRI. VENKATESH
S/O LATE THIMMAIAH,
AGED ABOUT 47 YEARS,
2. SMT. T. INDIRA
D/O LATE THIMMAIAH,
AGED ABOUT 36 YEARS,
3. SRI. HARISHA
D/O LATE THIMMAIAH,
AGED ABOUT 36 YEARS,
4. SMT. MUNIRATHNAMMA
D/O LATE THIMMAIAH,
AGED ABOUT 36 YEARS,

ALL ARE RESIDING AT
UGANAWADI VILLAGE,
KASABA HOBLI, DEVANAHALLI TALUK
BENGALURU NORTH - 562 110.

...PETITIONERS

(BY SRI. ADINARAYANAPPA, ADVOCATE)

Digitally
signed by
SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA



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AND:

1. SMT. DODDAMANGAMMA
W/O KARADIAH
D/O LATE VENKATAPPA AND
SMT. MUNIYAMMA,
AGED ABOUT 68 YEARS.
2. SMT. CHIKKA MANGAMMA
W/O NARASEGOWDA
D/O LATE VENKATAPPA AND
SMT. MUNIYAMMA,
AGED ABOUT 66 YEARS.
3. SMT. NARASAMMA
W/O HANUMANTHU
D/O LATE VENKATAPPA AND
SMT. MUNIYAMMA,
AGED ABOUT 64 YEARS
4. SMT. VENKATALAKSHMAMMA
W/O MURALI
D/O LATE VENKATAPPA AND
SMT. MUNIYAMMA,
AGED ABOUT 62 YEARS
5. SMT. NARASAMMA
W/O P. KRISHNAPPA
AGED ABOUT 6 YEARS,
6. SRI. NARASHIMHAMURTHY
S/O LATE CHIKKARANGAIAH
AGED ABOUT YEARS,



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7. SRI. GANGADAHRA
S/ O LATE CHIKKARANGAIAH
AGED ABOUT YEARS,
8. SRI. MADHA
S/O LATE CHIKKARANGAIAH
AGED ABOUT YEARS
9. SRI. NAGARAJA
S/O LATE. CHIKKARANGAIAH
AGED ABOUT YEARS
10. SMT. NARASAMMA
D/O LATE DODDAOLAMMA
AGED ABOUT 75 YEARS
11. SMT. SAKAMMA
W/O. THIMMAIAH
AGED ABOUT 70 YEARS
12. SRI. S. MUNIYAPPA
S/O SUBBEGOWDA
AGED ABOUT 85 YEARS,
13. SMT. SEETHA
D/O S MUNIYAPPA
AGED ABOUT 56 YEARS.
14. SRI. SUBRAMANYA
S/O S MUNIYAPPA
AGED ABOUT 48 YEARS.
15. SRI. NAGESH
S/O S MUNIYAPPA
AGED ABOUT 46 YEARS.



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16. SMT. JAYAMMA
W/O KRISHNEGOWDA
D/O S MUNIYAPPA
AGED ABOUT 42 YEARS
17. SRI. ASHWATHANARAYANA
S/O S MUNIYAPPA
AGED ABOUT 40 YEARS
18. SRI. MUNIRAJU
S/O S MUNIYAPPA
AGED ABOUT 38 YEARS
19. SRI. V. S. CHIKKAMUNIYAPPAVY
S/O SUBBEGOWDA
AGED ABOUT 80 YEARS
20. SRI. SUBBEGOWDA
S/O V.S.CHIKKAMUNIYAPPA
AGED ABOUT 45 YEARS
21. SMT. MEENAKSHAMMA
W/O GANGADHARA
S/O V.S. CHIKKAMUNIYAPPA
AGED ABOUT 38 YEARS
22. SRI. CHANDREGODA
S/O V.S. CHIKKAMUNIYAPPA
AGED ABOUT 35 YEARS
23. SMT. VENKATALAKSHMI
W/O BASAVARAJU
AGED ABOUT 68 YEARS



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24. SMT. KAMALAMMA
W/O BASAVARAJU
AGED ABOUT 58 YEARS

25. SMT. RADHA
W/O DEVRAJ
D/O BASAVARAJU
AGED ABOUT 40 YEARS

26. SRI. MANJUNATHA,
8/ O BASAVARAJU
AGED ABOUT 38 YEARS

27. SMT. ANITHA
W/O KRISHNAPPA
D/ O BASAVARAJU
AGED ABOUT 35 YEARS

28. SRI. SHIVAKUMAR
S/ O BASAVARAJU
AGED ABOUT 33 YEARS

29. SRI. MUNIRAJU
S/O CHIKKONAPPA @ RAMAIAH
AGED ABOUT 47 YEARS

ALL ARE RESIDING AT UGANAWADI VILLAGE,
KASABA HOBLI, DEVANAHALLI TALUK,
BANGALORE RURAL DISTRICT

30. SRI. PULAGAM SAMPADA REDDY
S/O P. VISHWANATHA REDDY,
AGED ABOUT 60 YEARS
R/AT NO.43, 10TH CROSS,



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GREEN PARK LAYOUT,
BANASAVADI,
BENGALURU -560 043

31. SMT. M. SAMPOORNA
W/O M DHANANJAYA REDDY,
AGED ABOUT 47 YEARS,
R/AT 87, 3RD CROSS,
BHUVANESHWARI NAGAR,
C.V. RAMANAGAR POST
BENGALURU - 560 093.

...RESPONDENTS

(BY SRI. YATHIRAJ S., ADVOCATE FOR R14, R17, R18, R20
AND R22, SRI. KRISHNAMURTHY M.R., ADVOCATE FOR
R23, R26 AND R28, SRI. KEMPANNA, ADVOCATE FOR R30
R5, R6, R7, R21, R29 AND R31 ARE SERVED)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO) CALL FOR THE ENTIRE
RECORDS PERTAINING TO THE SUIT IN MIS. PET. NO.07/2018
FROM THE FILE OF THE LEARNED SENIOR CIVIL JUDGE AND
J.M.F.C AT DEVANAHALLI. WHICH IS PRODUCED AT
ANNEXURE-H.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



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ORAL ORDER

The present writ petition is filed seeking the following prayers:

"i) To call for the entire records pertaining to the suit in Mis.Pet.No.07/2018 from the file of the learned Senior Civil Judge and J.M.F.C at Devanahalli, which is produced at Annexure-H.

ii) After perusing the records direct the trial court to consider the I.A.'s under order 39 rule 1 and 2 of CPC, restraining the respondents alienating, encumbering or creating any charges of the suit schedule properties till disposal of the above suit. Which are herewith produced at Annexure-B and C.

iii) And consequently direct the learned Senior Civil Judge and J.M.F.C at Devanahalli. To dispose the I.A's and Main suit within the time bound period.

iv) Grant cost of this appeal.

v) And also grant such other and further relief's as this Hon'ble court deems fit considering the facts and circumstances



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***of the case, to meet the ends of justice
and equity."***

2. The father of the petitioners herein has filed OS No. 155/2015 seeking partition on the file of the Senior Civil Judge and JMFC, Devanahalli. On 09.01.2018, the petitioners' suit was dismissed for default. On 09.02.2018, the petitioners filed a miscellaneous petition for restoration of the suit. Thereafter, they filed an application under Order XXXIX Rules 1 and 2 of the CPC seeking an order of injunction. When the Court did not consider the application, the petitioners came before this Court.

3. A Co-ordinate Bench of this Court, by the order dated 07.04.2026, granted an injunction restraining the respondents from alienating the suit schedule property till the next date of hearing. It was also made clear that the said order would not come in the way of the Trial Court to consider the application under Order XXXIX Rules 1 and 2 of the CPC in accordance with law. The said order came to be extended from time to time.



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4. Yesterday, i.e., 12.08.2026, when the matter came up for hearing, learned counsel appearing for the respondents brought to the notice of the Court that the writ petition had become infructuous, as the miscellaneous petition had been dismissed. By order dated 17.07.2026, the Court dismissed the petition. The Court observed that though the miscellaneous petition was filed in 2018, the petitioners had taken no effective steps to serve the petition and notices on some of the respondents. Without notice, they cannot claim an ex parte interim injunction against respondents.

5. The Court further observed that, even after a lapse of seven long years, no effective steps had been taken. Hence, the petition against respondent Nos. 13, 15, 16, 24 to 26, 28, and 31 was dismissed. The writ petition itself is not maintainable in view of the dismissal of the petition against some of the respondents. Hence, the entire petition was dismissed. However, the petitioners are at liberty to file a fresh petition in accordance with law.



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6. When the matter came up yesterday, the learned counsel for the petitioners submitted that the matter had not become infructuous and that he intended to question the said order. He further submits that, until the said order is questioned, he requires an interim order in his favour. Hence, he submits that the present petition has to be kept pending.

7. This Court has made it very clear that they are not entitled to seek any injunction in the present petition. Particularly, in light of the dismissal of the miscellaneous petition, the writ petition cannot be kept pending. Indicating that this Court is inclined to dismiss the writ petition, the matter is posted for today.

8. When the matter came up for consideration today, there was no representation on behalf of the petitioners, whereas the learned counsel for the respondents is present. This Court has already given an opportunity to the petitioners and indicated that the present petition will be dismissed. Despite the same, there is no representation on



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behalf of the petitioners. Hence, this Court is proceeding to decide the matter.

9. When a suit was filed in the year 2018 and the same is dismissed for default, thereafter, a miscellaneous petition is filed seeking restoration of the suit, and an application seeking an order of injunction is filed therein. The said injunction application has remained pending for more than eight years, and the petitioners have not even taken steps to serve notice on the respondents. Despite the same, the petitioners have approached this Court and obtained an order restraining alienation. In fact, the petitioners are not entitled to seek any such order from this Court.

10. When the suit itself has been dismissed and the miscellaneous petition has also been dismissed, there is no reason to keep the present writ petition pending. Now that the miscellaneous petition itself has been dismissed, all the more reason for this Court to dismiss the writ petition.

11. If the miscellaneous petition were pending, this Court would have directed the Trial Court to dispose of the



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application under Order XXXIX Rules 1 and 2 of the CPC. Since the miscellaneous petition itself has been dismissed, nothing survives for consideration in the present writ petition.

12. In view of the aforesaid discussion, this Court is passing the following:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. Pending IAs, if any, shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

SMC
List No.: 1 Sl No.: 3