



CNR: KAHC010263832025

NC: 2026:KHC:46543
CRP No. 284 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CIVIL REVISION PETITION NO. 284 OF 2025

BETWEEN:

BHAGI HARIJANA
(SINCE DECEASED)

1. SURENDRA,
AGED ABOUT 53 YEARS,
2. NARAYANA,
AGED ABOUT 60 YEARS,
3. INDIRA,
AGED ABOUT 57 YEARS,
4. LEELA,
AGED ABOUT 55 YEARS,
5. SUGANDHI,
AGED ABOUT 51 YEARS,
6. VASANTHA,
AGED ABOUT 49 YEARS,
ALL ARE CHILDREN OF
LATE BHAGI HARIJANA,
ALL ARE RESIDING AT
VASANTHA NILAY, H.NO. 8-16,
NEAR SUJATHA HOTEL,

Digitally
signed by
ANNA PURNA
G
Location:
High Court of
Karnataka



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THOTTAM POST, KODAVOOR VILLAGE,
UDUPI – 576 108.

...PETITIONERS

(BY SRI. PRASAD HEGDE K B., ADVOCATE)

AND:

1. SHASHIKALA BHAT,
AGED ABOUT 70 YEARS,
2. T. RAMACHANDRA BHAT,
AGED ABOUT 50 YEARS,
3. POORNIMA BHAT,
AGED ABOUT 47 YEARS,
4. T. SHRINIVASA BHAT,
AGED ABOUT 48 YEARS,
5. ANURADHA BHAT,
AGED ABOUT 45 YEARS,
RESPONDENT NO.1 IS WIDOW AND
NO.2 TO 5 ARE CHILDREN OF
LATE T.RADHAKRISHNA BHAT AND
ALL ARE RESIDING AT BAILAKERE,
THENKANIDIYOOR VILLAGE,
POST THOTTAM,
UDUPI – 576 106.

...RESPONDENTS

(BY SRI. AMRUTHESH C., ADVOCATE FOR R1 TO R5)

THIS CRP IS FILED UNDER SECTION 115 OF CPC,
AGAINST THE ORDER DATED 03.04.2025 PASSED IN
EX.CASE.18/2019 ON THE FILE OF THE PRINCIPAL CIVIL



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JUDGE AND JMFC, UDUPI, PARTLY ALLOWING THE EXECUTION PETITION FILED UNDER ORDER XXI RULE 11(2) OF CPC.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This civil revision petition is filed challenging the order dated 03.04.2025 passed in Execution Case No.18/2019 by the Principal Civil Judge and JMFC, Udupi (hereinafter referred to as the 'Executing Court' for short).

2. Heard Sri Prasad Hegde K.B., learned counsel appearing for the petitioners and Sri Amruthesh C., learned counsel appearing for the respondents.

3. The respondents/deed holders filed a suit in O.S.No.5/1995 against the petitioners herein seeking the reliefs of declaration, mandatory and permanent injunction. The said suit came to be decreed vide judgment dated 06.10.1998. The operative portion of the



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judgment indicates that the suit of the plaintiff was decreed. It was declared that the plaintiff had acquired an easement of prescriptive right of way over the road R2 mentioned in the plaint eye sketch to reach the plaint Schedule A property from the road R1 shown in the plaint eye sketch. Defendant No.2 was directed to remove all the obstructions placed over Item No.11 of the plaint Schedule A property and the defendants were further permanently restrained from reducing the width of the roads R2 and R3 shown in the plaint eye sketch. The appellate Court affirmed the judgment and decree by setting aside the relief of mandatory injunction. The regular second appeal came to be dismissed.

4. It is to be noticed that the decree holders had earlier filed two execution proceedings complaining that, despite the judgment and decree granting easementary right, the judgment debtors were obstructing the use and enjoyment of the road in question. The third execution petition in Execution case No.18/2019 came to be filed. In



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the said execution proceedings, after conducting an enquiry, the Executing Court allowed the execution petition in part by appointing a Court Commissioner to monitor the removal of the obstruction i.e., granite stones placed and trees planted on the road R2 mentioned in the plaint eye sketch situated in Survey No.324/1F2 of Kodavoor Village, Udupi Taluk. Further, the judgment debtor No.1(a) was ordered to be housed in Civil imprisonment for a period of 30 days.

5. It is to be noticed that, in the present petition, the respondents undertook not to precipitate the matter. It is also to be noticed that this Court, vide order dated 26.06.2025, considering the rival submissions, appointed the Assistant Director of Land Records (for short, 'ADLR') as the Court Commissioner and directed him to submit a report. Pursuant to the said direction, the ADLR submitted the report on 09.07.2025. The report was also annexed with a sketch.



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6. It is to be noticed that the judgment and decree, which was affirmed by this Court in the regular second appeal, indicate that the decree was granted in favour of the respondents with regard to the right to use the road shown in the plaint sketch. The report of the ADLR, now placed pursuant to the order dated 26.06.2025, indicates that there exists a road and the same is marked in the sketch annexed to the report of the ADLR. The contention of the learned counsel for the respondents is that, despite there being a road shown in Survey No.324/1F2, there is obstruction by the petitioners/ judgment debtors.

7. It is also to be noticed that the report submitted by the ADLR before this Court indicates the existence of the road and that the right to use the said road has attained finality. Hence, in my considered view, there cannot be any obstruction by the petitioners/judgment debtors to the use of the road as shown in the sketch prepared by the ADLR. If any obstruction is found, the



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respondents/deed holders have the right to get the said road cleared.

8. With the aforesaid observations, I proceed to pass the following:

ORDER

- i) The civil revision petition is ***allowed-in-part***.
- ii) The impugned order dated 03.04.2025, insofar as it relates to the order of housing judgment debtor No.1(a) in the civil imprisonment, is set aside. The finding that there cannot be any obstruction by the judgment debtors with regard to the right of way over the road shown in the sketch prepared by the ADLR is upheld.
- iii) The deed holders are permitted to take the assistance of the Court Commissioner and remove the obstruction, as per the sketch prepared by the ADLR. The



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judgment debtors shall not obstruct the decree holders or the Court Commissioner in removing such obstruction through the process of the Court.

iv) All pending applications shall stand disposed of.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

SHS
List No.: 1 Sl No.: 16