



CNR: KAHC010278042022

NC: 2026:KHC:42852
W.P. No.12541/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 12TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.12541/2022 (GM-CPC)

BETWEEN:

SMT. SHOBHA .S
W/O LATE N. CHANDRASHEKAR
AGED 36 YEARS
R/AT SITE NO.181, 182
GANESH FARM, KEB ROAD
ANJANA NAGAR, MAGADI MAIN ROAD
VISHWANEEDAM POST
BENGALURU 560091.

...PETITIONER

(BY SRI. VENKATA REDDY A, ADV.,)

AND:

1. SRI. A. MUNIYAPPA
AGED 56 YEARS
S/O APPAYANNA.

2. SMT. LAKSHMAMMA
AGED 55 YEARS
W/O A. MUNIYAPPA.

BOTH ARE R/AT
HEROHALLI VILLAGE, ANJANAGARA
NEAR ANJANEYA TEMPLE
MAGADI MAIN ROAD
VISHWANEEDAM POST
BANGALORE 560091.

...RESPONDENTS

(BY SRI. HARSHA KUMAR GOWDA H.R. ADV., FOR R1 & R2)

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ANNEX-A DISMISSING OF I.A.NO.8 IN O.S.NO.871/2013 ON THE FILE OF IV ADDL. CIVIL JUDGE, SENIOR DIVISION, BENGALURU RURAL DISTRICT, BENGALURU, ORDER DTD.16.4.2022 VIDE ANNEXURE-A. DIRECT THE TRIAL COURT TO RECAST ISSUE HAS SUGGESTED BY THE PETITIONER IN I.A.NO.8 AND ORDER DTD.16.4.2022 AT ANNEXURE-A PROCEED TO RECORD EVIDENCE AND DISPOSE OF THE BOTH SUITS ON MERITS & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

This petition is filed challenging the order dated 16.04.2022 passed on IA.No.8 in OS.No.871/2013 by the IV Additional Civil Judge, Senior Division, Bengaluru Rural District, Bengaluru (for short 'the trial Court').

2. Heard Sri.Venkata Reddy A., learned counsel appearing for the petitioner, Sri.Harsha Kumar Gowda H.R., learned counsel for respondent Nos.1 and 2 and meticulously perused the material available on record.



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3. The respondents filed a suit in OS.No.871/2013 seeking the relief of declaration that plaintiff No.2 is the absolute owner having legal right, title, interest over the suit schedule property having purchased the suit schedule property under the sale deed date dated 25.06.2011, which is binding upon the defendant, her legal heirs, representatives, administrators, agents etc., The plaintiffs have also sought the reliefs of possession, mesne profit, permanent injunction, and interest on the compensation amount. In the said suit, the petitioner/defendant filed a written statement. The trial Court framed the issues on 23.11.2020 and the trial commenced. Thereafter, the defendant filed an application under Order XIV Rule 5 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') seeking recasting of certain issues and framing of additional issues. The trial Court, under the impugned order rejected the said application by recording the reason that the issues had been framed after considering the pleading available on record and that the



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additional issues sought by the defendants were already covered in the issues framed.

4. It is to be noticed that the trial Court has framed the following issues in the suit:

"1. Whether the plaintiffs prove that plaintiff No.2 is absolute owner of the suit schedule property through registered sale deed dated 25-06-2011 registered as Document No.LAG-1-02676/2011-12 at the office of Sub-Registrar, Laggere, Bangalore?

2. Whether the defendant proves that she has paid the sale consideration under Sale deed dated 31-03-2008 to the plaintiff No.1 with respect to suit schedule property?

3. Whether the plaintiffs are entitled for relief of declaration plaintiff No.2 is absolute owner of the suit schedule property through registered sale deed dated 25-06-2011 registered as Document No.LAG-1-02676/2011-12 at the office of Sub-Registrar, Laggere, Bangalore as sought for?

4. Whether the plaintiffs are entitled for the relief of lawful possession of the suit schedule property?

5. Whether the plaintiffs are entitled for relief of permanent injunction restraining the defendant from interfering with peaceful possession of the suit schedule property by the plaintiffs as sought for?



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6. *Whether the plaintiffs prove that they are entitled for mense profit of Rs.20,000/- per month from 02-02-2011 till the date of actual delivery of the vacant possession of the suit schedule property and costs at the rate of 18% p.a.?*

7. *What Order or Decree?"*

5. The defendant sought framing of the following additional issues:

*"1. To delete Issue No.2, whether the Defendant No.2 has paid the sale consideration under the sale deed dated 31-03-2008 to the Plaintiff No.1 with respect to Suit Schedule Property in its place frame Additional Issue as
"Whether the Plaintiff No.1 proves that the Defendant has executed General Power of Attorney and Affidavit both dated 02-02-2011 in favour of Plaintiff No.1 as pleaded in the Plaint.?"*

2. Whether Plaintiffs prove that the Defendant has delivered possession of the Suit Schedule Property to second Plaintiff as per the sale deed dated 25-06-2011?

3. To delete Issue No.5, Whether the Plaintiffs are entitle for relief of permanent injunction restraining the Defendants from interfering with the peaceful possession of the Suit Schedule Property by the Plaintiffs as sought for?

4. Whether the Defendant proves that there exists 26 Squares building in the suit schedule property in the year 2010 and leased out the same to tenants as contended in the Written Statement filed?



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5. Whether the Plaintiffs prove that they have paid proper Advelorum Court Fee as per Market Value on the date of the Suit as per Karnataka Court Fee and Suit Valuation Act?

6. Whether the Defendant proves that the Plaintiffs have not valued the Suit Schedule Property as per the market value as on the date of the suit and the suit has to be dismissed for non-payment of proper Court Fee on the Plaint as pleaded in the Written Statement filed?"

6. The additional issues sought to be framed by the defendant in the application indicate that the defendant is seeking deletion of issue No.2 and substitution thereof with another issue. However, issue No.2 cannot be deleted in view of the specific pleadings and the dispute with regard to the same. The said deletion and addition sought is covered with issue No.1 framed by the trial Court.

7. It is further to be noticed that the additional issue No.2 referred *supra* is also covered by issue No.4 framed by the trial Court. The defendant is seeking deletion of issue No.5. The same cannot be deleted in view of the specific prayer in the plaint with regard to the relief



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of injunction. Insofar as additional issue No.4 is concerned, the said issue is not the subject matter of the suit, and no relief is sought by the plaintiffs in respect thereof. Therefore, the said additional issue No.4 is unnecessary. Insofar as additional issue No.5 relating to payment of Court fee is concerned, it is relevant to note that this Court, in Civil Revision Petition No.353/2017, vide order dated 10.06.2024 dismissed the revision petition by observing as under:

"The trial Court is directed to consider the application filed by the petitioner under Order 14 Rule 5 of CPC favorably and frame necessary issues relating to the court fee paid and further treat the same as a preliminary issue and pass necessary orders thereon on the basis of the evidence thereon. In the event of the court fee paid being found to be deficit, the plaintiff could always be directed to make payment of the same and if found to be adequate, no requirement for such an order to be made."

8. The trial Court, considering the aforesaid aspects has rightly rejected IA.No.8 filed by the defendant under Order XIV Rule 5 of the CPC. I do not find any ground to interfere with the impugned order.



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9. It is made clear that, insofar as the issue relating to payment of Court fee by the plaintiffs is concerned, the trial Court shall consider the order dated 10.06.2024 passed by this Court in Civil Revision Petition No.353/2017, which is extracted *supra*, and proceed in accordance with law. With the aforesaid observations, the writ petition is ***disposed of*** without interfering with the impugned order of the trial Court except on issue of Court fees.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 24