



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 12854 OF 2026 (GM-CPC)

BETWEEN:

1. SRI SHIVAPPA H L
S/O H. LAMANI
AGED ABOUT 58 YEARS
R/AT 7, 3RD CROSS, KRISHNAGARDEN
RAJARAJESHWARINAGAR
BANGALORE-560098.
2. SRI. SIMON S.C.
S/O SHIVAPPA H.L.
AGED ABOUT 27 YEARS
R/AT #7, 3RD CROSS, KRISHNAGARDEN
RAJARAJESHWARINAGAR
BANGALORE-560098.

...PETITIONERS

(BY SRI. K.SHRIHARI., ADVOCATE)

AND:

SRI THIMMAREDDY P
S/O SRI. PULLAREDDY
AGED ABOUT 43 YEARS
R/AT 85, 1ST J CROSS, SHARADA COLONY
BASAVESHWARNAGAR, BANGALORE-560079.

...RESPONDENT

(BY SRI.RAJESH MAHALE, SENIOR COUNSEL FOR
SRI M RAMACHANDRA, ADVOCATE FOR C/R)

Digitally signed
by
DHANALAKSHMI
MURTHY
Location: HIGH
COURT OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER, OR DIRECTION, QUASHING THE IMPUGNED ORDER DATED 04.04.2026 PASSED ON I.A. NO. VI IN O.S. NO. 6633/2023 BY THE LEARNED XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, PRODUCED AS ANNEXURE-A AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. In the present writ petition, the petitioners-defendants, have called in question the order dated 04.04.2026 passed by the XV Additional City Civil and Sessions Judge, Bengaluru (hereinafter referred to as the "Trial Court") on I.A.No.VI filed by defendant No.2 under Order XXVI Rule 9 read with Section 151 of the Code of Civil Procedure, 1908, in O.S.No.6633/2023, whereby the said application seeking for appointment of a Court Commissioner came to be dismissed.



2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court in the original suit.

3. The plaintiff has instituted O.S.No.6633/2023 seeking the relief of bare injunction. Upon service of summons, the defendants entered appearance and filed written statement. Based on the pleadings, the Trial Court framed issues and the parties have adduced their evidence. After completion of evidence of the parties, the defendants have filed I.A.No.VI under Order XXVI Rule 9 of CPC seeking for appointment of a Court Commissioner to conduct local investigation of the suit schedule property as well as the written statement schedule property for the purpose of proper identification and elucidation of the matter in dispute. The Trial Court, by the impugned order dated 04.04.2026, dismissed the said application on the ground that the defendants have admitted the documents produced by the plaintiff and the construction put up by



the plaintiff, thereby admitting the possession of the plaintiff over the suit schedule property. Aggrieved thereby, the defendants are before this Court.

4. Be that as it may. The application is filed mainly on the ground that the defendants have disputed the identity of the property. The plaintiff in the cross examination has admitted that he has no objection for appointment of a Court Commissioner.

5. The appointment of a Court Commissioner would not cause any prejudice to the plaintiff; on the contrary, it would assist the Court in effectively adjudicating the dispute.

6. Therefore, in that view of the matter, this Court is of the opinion that the writ petition deserves to be allowed and the impugned order is liable to be set aside.

7. Accordingly, the following order is passed:



ORDER

- a) The writ petition is **allowed**.
- b) The order dated 04.04.2026 passed by the XV Additional City Civil and Sessions Judge, Bengaluru on I.A.No.VI filed under Order XXVI Rule 9 of CPC in O.S.No.6633/2023, is hereby set aside.
- c) I.A.No.VI filed under Order XXVI Rule 9 of CPC is allowed.
- d) The Trial Court is directed to appoint a Court Commissioner on 25.04.2026 and direct the Court Commissioner to submit a report on or before 04.06.2025 and thereafter, the Trial Court shall proceed with the matter in accordance with law.

**Sd/-
(H.T. NARENDRA PRASAD)
JUDGE**