



CNR: KAHC010289702021

NC: 2026:KHC:38775
W.P. No.14791/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 27TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.14791/2021 (GM-CPC)

BETWEEN:

MARIYAPPA
S/O LATE VENKATAPPA
AGED ABOUT 67 YEARS
AGRICULTURIST
R/O MASARAHALLI VILLAGE
BARANDOR POST, KASABA HOBLI
BHADRAVATHI TALUK-577301
SHIVAMOGGA DISTRICT.

...PETITIONER

(BY SRI. GURUPRASAD HEGDE, ADV., FOR
SRI. S.V. PRAKASH, ADV.,)

AND:

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA

1. RAMDAS
AGED ABOUT 66 YEARS
S/O LATE VENKATAPPA
AGRICULTURIST
R/O MASARAHALLI VILLAGE
BARANDOR POST, KASABA HOBLI
BHADRAVATHI TALUK-577301
SHIVAMOGGA DISTRICT.
2. MAYAMMA
AGED ABOUT 58 YEARS
D/O LATE VENKATAPPA
HOUSE MAKER
R/O MASARAHALLI VILLAGE
BARANDOR POST, KASABA HOBLI



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BHADRAVATHI TALUK-577301
SHIVAMOGGA DISTRICT.

...RESPONDENTS

(BY SRI. R. KIRAN, ADV., FOR R1
R2 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DTD 24.08.2018 PASSED BY THE COURT OF LEARNED PRINCIPAL CIVIL JUDGE AND JMFC, BHADRAVATHI ON I.A.NO.6 IN FDP NO.2/2009 PRODUCED AT ANNEX-F TO THE WRIT PETITION AND ALSO SET ASIDE THE ORDER DATED 05.02.2021 PASSED BY THE TRIAL COURT ON I.A.NO.VIII VIDE ANNEX-J TO THE W.P. & 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 writ petition is filed seeking the following relief:

"(a) ISSUE a writ in the nature of certiorari and to set aside the order dated 24.08.2018 passed by the court of learned Principal Civil Judge and JMFC, Bhadravathi on I.A.No.6 in FDP No.2/2009 produced at ANNEXURE-'F' to the writ petition and also set aside the order dated 05.02.2021 passed by the trial court on I.A. No.VIII vide ANNEXURE-'J' to the writ petition;

(b) ISSUE any other appropriate writ or order or direction as this Hon'ble Court deems it appropriate in



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the facts and circumstances of this case, in the interest of justice and equity;

(c) AWARD cost of this proceedings."

2. Heard Sri.Guruprasad Hegde, learned counsel for Sri.S.V.Prakash, learned counsel for the petitioner, Sri.R.Kiran, learned counsel for the respondent No.1 and perused the material available on record.

3. Respondent No.1 – Sri.Ramdas and Sri.Venkatagiri have filed the suit in O.S.No.254/1989 for partition and separate possession. The said suit came to be decreed. Thereafter, the respondent No.1 Sri.Ramdas and Sri.Venkatagiri have initiated final decree proceedings in FDP No.2/2009. In the said proceedings, the parties have filed a compromise petition and as per the compromise petition, one share is allotted to Sri.Ramdas and Sri.Venkatagiri; Smt.Mayamma-respondent No.2 relinquished her



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share in favour of Mariyappa, the petitioner herein. During the pendency of the aforesaid proceedings, Sri.Venkatagiri died on 06.01.2013. Hence, the petitioner herein had filed an application under Order XXII Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 (for short, '**the CPC**') praying to treat Mariyappa - petitioner herein and Sri.Ramdas - respondent No.1 herein as the legal heirs of deceased Venkatagiri, which came to be dismissed, and the same was assailed before this Court in W.P.No.18461/2015 and this Court vide order dated 03.02.2016 allowed the writ petition and the matter was remitted back to the trial Court. The trial Court under the impugned order allowed I.A.No.6 by further ordering that the Sri.Ramdas, who is respondent No.1 herein, is the only legal heir of the deceased Venkatagiri. The petitioner herein had filed an application in I.A.No.8 under Sections 152 and 153 of the CPC seeking to correct the error in the order dated



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24.08.2018 and the said application came to be rejected.

4. It is required to be noticed that in the FDP proceedings, there were four parties viz., Sri.Ramdas-respondent No.1, Sri.Venkatagiri, Sri.Mariappa-petitioner and Smt.Mayamma-respondent No.2; all are siblings. As per the compromise petition, Smt.Mayamma has relinquished her right in favour of the Mariyappa, the petitioner herein. Be that as it may, Sri.Venkatagiri, who was petitioner No.2 in FDP No.2/2018, had died during the pendency of the FDP proceedings, hence, filing an application by the petitioner herein to treat the petitioner and respondent No.1 as the legal heirs does not arise as there is another sister Smt.Mayamma, hence she is also required to be treated as a legal heir in the aforesaid proceedings.



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5. The records indicate that the petitioner herein has filed an application to treat the petitioner as well as respondent No.1 as the legal heirs of deceased Venkatagiri, however the petitioner has failed to include Smt.Mayamma, who is also the legal heir of deceased Venkatagiri, hence, the application itself was a defective one. Hence, in my considered order view, it would be appropriate to permit the petitioner to file a fresh application indicating the petitioner, respondent No.1 and respondent No.2 as the legal heirs of the deceased Venkatagiri.

6. For the aforementioned reasons, I proceed to pass the following:

ORDER

- i. The writ petition is ***allowed.***
- ii. The impugned order dated 24.08.2018 passed on I.A.No.6 and order dated 05.02.2021 passed on I.A.No.8 in FDP



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No.2/2019 by the Principal Civil Judge and JMFC., Bhadravathi, are set aside.

- iii. The petitioner is permitted to file a fresh application for legal heirs of the deceased Venkatagiri in the FDP proceedings and the trial Court shall consider the same in accordance with law.

All contentions of the parties are kept open.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 24