



CNR: KAHC010369282023

NC: 2026:KHC:41727
WP No. 15673 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 15673 OF 2023 (GM-CPC)

BETWEEN:

SMT. UMA DEVI
W/O ERESHAPPA @ VEERSHAPPA,
AGED ABOUT 57 YEARS,
R/AT D.B.HALLI VILLAGE,
KALLIHAL POST,
BHADRAVATHI TALUK-577303
SINCE REPRESENTED BY HER GPA HOLDER,
B.G. SOMASHEKARAPPA,
S/O LATE B H GOPALA RAO,
AGED ABOUT 54 YEARS,
R/AT 1ST CROSS,
NRUPATHUNGANAGAR,
HOSAMANE,
BHADRAVATHI-577303.

Digitally
signed by
BHARATHI S

Location:
HIGH
COURT OF
KARNATAKA

(BY SRI. RAVINDRANATH M.,ADVOCATE)

...PETITIONER

AND:

1. BHIMA
S/O SANGAPPA,
AGED ABOUT 55 YEARS,
COOLIE,
R/AT KURUBARABEEDI,
NEAR KEREKODAMMA TEMPLE,
HOSAMANE,
BHADRAVATHI-577303.



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2. SUDHAMMA
W/O LATE RANGAIAH,
AGED ABOUT 55 YEARS,
R/AT KURUBARABEEDI,
NEAR KEREKODAMMA TEMPLE,
HOSAMANE,
BHADRAVATHI-577303
3. SHARADAMMA
W/O LATE SHIVARUDRAPPA,
AGED ABOUT 45 YEARS,
R/AT KURUBARABEEDI,
NEAR KEREKODAMMA TEMPLE,
HOSAMANE,
BHADRAVATHI-577303

...RESPONDENTS

(R1, R2 AND R3 ARE SERVED)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE COMMON ORDER DTD 27.6.2023 PASSED ON IA.NO.16 TO 18 IN OS.NO.217/2018 BY THE COURT OF THE PRL.CIVIL JUDGE AND JMFC, BHADRAVATHI AS PER ANNEX-A AND ETC.

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

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

ORAL ORDER

The present writ petition is filed calling in question the order dated 27.06.2023¹ passed on IA.Nos.16 to 18 in OS No.217/2018 by the Principal Civil Judge and JMFC,

¹ hereinafter referred to as 'the impugned order'



Bhadravathi², whereunder the trial Court rejected the said applications.

2. The petitioner/plaintiff filed the suit [OS No.217/2018] for injunction. The subject matter of the suit is site No.406 forming part of Sy.No.106/1, 106/2 in Bhadravathi Town³. In the said suit, the plaintiff filed IA.No.16 under Order XVI Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908⁴ to condone the delay in furnishing the witness list; IA.No.17 under order XXVIII Rule 17 of the CPC to re-open the case; and IA.No.18 under Order XVI Rule 7 read with Section 151 of the CPC to issue summons to the Commissioner, City Municipal Council, Bhadravathi, to adduce his evidence and produce documents. The trial Court, by the impugned order, rejected the said applications. Being aggrieved, the present writ petition is filed.

3. The trial Court while rejecting IA.No.18 held as under:

² hereinafter referred to as the 'trial Court'

³ hereinafter referred to as 'the subject property'

⁴ hereinafter referred to as 'the CPC'



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"4. Now coming to the IA No.18, the relief is seeking summons to the Commissioner of CMC to produce documents pertaining to the Suit Schedule Property. As per the provision of Indian Evidence Act, alternative remedy is available to the plaintiff to secure the documents which are seeking to be summoned from the authority concerned and the plaintiff may produce the same before this Court. For which, there is necessity that this Court shall summon the authority concerned. Keeping these observations in mind, this Court is of the view that there are no justifiable grounds appearing in IA No.18 to grant the relief as prayed for. "

(emphasis supplied)

4. It is clear that the trial Court rejected IA.No.18 since remedy is available to the petitioner/plaintiff to secure the documents, which are summoned and produce the same in the Court in accordance with the provisions of the Indian Evidence Act, 1872. No fault can be found with the trial Court for rejecting IA.No.18.

5. However, learned counsel for the petitioner seeks to assail the findings recorded by the trial Court while dismissing IA.Nos.16 and 17. It is contended that within merely two days of hearing, the applications were filed and there was no delay on the part of the petitioner in making the said applications.



6. Learned counsel for the petitioner submits that the suit is posted before the trial Court on 31.08.2026.

7. IA.No.16 was filed to condone the delay in furnishing the witness list. The list of witness indicates that the petitioner proposes to examine two witnesses i.e., (i) Sri Siddappa w/o Shekharappa and, (ii) the Commissioner, City Municipal Council, Bhadravathi.

8. Learned counsel for the petitioner upon instructions submits that for the present he would not insist on examining the Commissioner, City Municipal Council, Bhadravathi and would examine the witness No.(i) by producing the requisite documents.

9. In view of the aforementioned, IA.Nos.16 and 17 filed by the petitioner/plaintiff are partly allowed. The suit is re-opened and the plaintiff be permitted to produce the documents on the next date of hearing i.e., on 31.08.2026.

10. The witness summons to witness No.(i) ie., Sri Siddappa be issued by the trial Court on the next date of hearing and the plaintiff be afforded an opportunity to examine



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the said witness. Consequent to the same, the trial Court shall further proceed in the suit in accordance with law.

11. The writ petition is partly allowed to the aforementioned extent.

**SD/-
(C.M. POONACHA)
JUDGE**

ND
List No.: 1 Sl No.: 4