



CNR: KAHC010380362024

NC: 2026:KHC:39209
WP No. 8091 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 8091 OF 2025 (GM-CPC)

BETWEEN:

SRI. R.C. JANARDHANA
S/O CHANDRASHEKAR
AGED ABOUT 55 YEARS
RESIDING AT NO. 181
YHB LAYOUT, SHANKAR MUTT
BANGALORE-560 079

...PETITIONER

(BY SMT. SADHANA S. DESAI, ADVOCATE)

AND:

1. SMT. CHIKKATHAYAMMA
W/O N MAHADEVA
AGED ABOUT 72 YEARS
RESIDING AT HONNAGANAHATTI VILLAGE
TAVAREKERE HOBLI
BANGALORE SOUTH TALUK-562 130
2. SRI. UGRA NARASIMHAIAH
S/O LATE NARASIMHAIAH
AGED ABOUT 57 YEARS
RESIDING AT
NEAR MARAMMA TEMPLE
TAVAREKERE VILLAGE
TAVAREKERE HOBLI
BANGALORE SOUTH TALUK-562 130
3. SRI. D. SIDDARAJU
S/O LATE DODDAIAH



CNR: KAHC010380362024

NC: 2026:KHC:39209
WP No. 8091 of 2025

AGED ABOUT 65 YEARS
RESIDING AT
CHOLANAYAKANAHALLI VILLAGE
TAVAREKERE HOBLI
BANGALORE SOUTH TALUK-562 130

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS IN OS NO.257/2017 ON THE FILE OF II ADDL. CIVIL JUDGE AND JMFC, MAGADI AND SET ASIDE THE ORDER DATED 29/02/2024 FILED UNDER ORDER XXVI RULE 9 R/W SECTION 151 OF CPC IN OS NO.257/2017 ON THE FILE OF II ADDL. CIVIL JUDGE AND JMFC, MAGADI PRODUCED AS ANNEX-A AND CONSEQUENTLY APPOINT A COURT COMMISSIONER TO SURVEY AND VERIFY AND FIX THE BOUNDARIES OF THE SCHEDULE PROPERTY.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed aggrieved by the order dated 29.02.2024 passed in I.A.No.V in O.S.No.257/2017 by the II Additional Civil Judge and JMFC, Magadi, the petitioner/defendant No.1 is before this Court.

2. The respondent No.1 herein, who is the plaintiff, has filed O.S.No.257/2017 seeking bare injunction. Even before the written statement was filed, defendant No.1 filed I.A.No.V under Order XXVI Rule 9 read with Section 151 of the CPC at



the stage of cross-examination of PW1, seeking to appoint the Commissioner to survey the suit schedule property. That application was rejected by the impugned order.

3. While rejecting the application, the trial Court had observed that defendant No.1 without cross examining PW1 has filed the application only with an intention to drag on the proceedings and to kill the precious time of the Court. Moreover, the defendant No.1 has not specifically stated as to why the appointment of Court Commissioner is necessary at this stage. It is observed that the decision relied on by defendant No.1 is not applicable to the present case on hand and accordingly, rejected the application.

4. Learned counsel appearing for the petitioner/defendant No.1 submits that an application for the appointment of Court Commissioner can be filed at any stage of the proceedings. It is submitted that this depends upon the facts of the case, and the trial Court, without considering this aspect, had dismissed the application. It is submitted that, in the light of the controversy between the parties, the trial Court ought to have allowed the application seeking the appointment of a Court Commissioner.



5. Having heard the learned counsel for the petitioner, perused the material on record. This is a writ petition of the year 2025 questioning an order passed on 29.02.2024. It has come up before this Court after compliance of the office objections for the first time in the year 2026. The suit is filed seeking bare injunction, and the burden lies on the plaintiff to prove his possession. When the suit was at the stage of cross-examination of PW1, the present application was filed. The trial Court has rightly considered all the aspects and dismissed the application. After the entire evidence is placed on record, it is all the more necessary to elucidate the Court with regard to the issue and dispute. There is no dispute over the proposition that the advocate commissioner can be appointed. However, in this case, without the defendant adducing any evidence, the defendant has come up with this application, and the trial Court has rightly dismissed the application.

6. In that view of the matter, this Court does not find any reason to interfere with the impugned order. Hence, this Court is passing the following order:



CNR: KAHC010380362024

NC: 2026:KHC:39209
WP No. 8091 of 2025

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. However, this will not preclude the petitioner from filing an application at an appropriate stage, and the trial Court shall consider the application in accordance with law.
- iii. All I.As. in this petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

MEG
List No.: 1 Sl No.: 51