



**IN THE HIGH COURT OF KARNATAKA AT
BENGALURU**

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 17986 OF 2026 (GM-CPC)

BETWEEN:

SMT G SELVI
W/O G.GAJARAJ,
AGED ABOUT 56 YEARS
R/AT NO.1043, 6TH CROSS, SRIAMAPURA,
BANGALORE -560 021
REPRESENTED BY HER SPA HOLDER,
G.GAJARAJ S/O D.GOPAL,
AGED ABOUT 64 YEARS,
NO.1043/3, 6TH CROSS,
SRIRAMAPURAM,
BANGALORE-560 021 .
NOW R/AT NO.681, 61ST CROSS,
RAJAJINAGARA, 5TH BLACK,
BASHAM CIRCLE,
BANGALORE-560 010

...PETITIONER

(BY SRI. G.V.NARASIMHA MURTHY, ADVOCATE)

AND:

SRI S JAGANNATH IYENGAR
S/O LATE P.G.SAMPATH KUMAR,
AGED ABOUT 76 YEARS,
R/AT NO.204, 1ST FLOOR,
16TH CROSS,
CHOWDAIAH MEMORIAL HALL ROAD,
MALLESHWARAM,
BANGALORE-560 003.

...RESPONDENT



(BY SRI.K.K.VASANTH, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DATED: 02.06.2026 ON I.A.NO. 1/2025 IN O.S.NO. 4577/2020 PENDING ON FILE OF THE HONBLE XLIII ADDL. CITY CIVIL AND SESSIONS JUDGE AT BANGALORE (CCH-44) AT (ANNEXURE-D) AND PLEASED TO ALLOW THE I.A.NO.1/2025 AS PRAYED.

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 by the plaintiff, aggrieved by the orders passed in I.A.No.1 in OS.No.4577/2020 dated 02.06.2026 by the XLIII Addl. City Civil & Sessions Judge, Bangalore, the plaintiff is before this Court.

2. The petitioner herein, who is a plaintiff in the suit, has filed a suit for declaration and injunction in that the defendant has filed a written statement and also sought a counterclaim. After the plaintiff's evidence is completed and the matter is posted for defendants evidence, at that point of time, the plaintiff has filed the instant application seeking appointment



of the Advocate Commissioner that came to be dismissed by order impugned.

3. While dismissing the application, the trial court has observed that the plaintiff has filed this suit against the defendant seeking relief of declaration and permanent injunction. The defendant has filed a written statement with counterclaim. The SPA holder of the plaintiff was examined as PW.1 and got marked Ex.P1 to Ex.P11 and fully cross-examined. It is not the case of the plaintiffs that the defendant has encroached the suit schedule property. The Court Commissioner cannot be appointed to collect the evidence. The purpose of appointing a Court Commissioner is to clarify any dispute in a suit, but not to help a party to collect evidence. A Court Commissioner cannot be appointed to investigate the factual position of a property. A Court Commissioner can be appointed if there is a valid reason to clarify disputed matter in a suit. Looking at the nature of the suit, facts and circumstances of the suit, the appointment of Court Commissioner is redundant and the principals laid down in the referred cases relied by the plaintiff are not applicable to



the facts and circumstances of the case and accordingly dismissed the petition.

4. Learned counsel appearing for the petitioner submits that when both the plaintiff and the defendants are seeking a declaration with respect to the suit-scheduled properties, the appointment of a Court Commissioner is very much necessary and it will help the court in deciding the dispute between the parties. Without considering these aspects, the trial court has dismissed the application.

5. Learned counsel appearing for the respondent submits that when the plaintiff has sought a declaration, and the defendant has filed a counterclaim seeking an injunction, the trial court has rightly observed that there is no dispute with regard to the identity of the property. The plaintiff has to succeed on the strength of the evidence adduced regarding the declaration of title, and the trial court has rightly dismissed the application.

6. Having heard the learned counsels on either side, perused the material on record. This court finds that the plaintiff's suit is for declaration and the defendant has filed a



counterclaim seeking an injunction. The evidence of the plaintiff is complete. Now it is coming up for the evidence of the defendant. At this stage, the petitioner has filed an application. This court has perused the affidavit filed along with the IA. It merely states that the appointment of the commissioner is relevant and would be helpful in deciding the dispute. No other reasons are stated. The trial court has rightly observed that there is no dispute regarding any boundaries, that the plaintiffs claim of title is for a declaration, and that he has to prove it by adducing necessary evidence. For that purpose, he cannot seek the appointment of the commissioner. The trial court has rightly held that, after the evidence is adduced, in the facts and circumstances, the court would consider the same. But at this stage, it is not necessary for the court to appoint the court commissioner. In that view of the matter, this court is passing the following:

ORDER

- i. This Court does not find any informative with the order passed by the trial court.
- ii. Accordingly, the writ petition is ***dismissed***.



- iii. This order will not preclude the parties from filing an application for appointment of Commissioner at an appropriate stage, and the court will consider the same in accordance with law.
- iv. Pending I.As., in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

TS
List No.: 1 Sl No.: 49