



CNR: KAHC010406872026

NC: 2026:KHC:40609
WP No. 18609 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 18609 OF 2026 (GM-CPC)

BETWEEN:

1. M KUSHAL
S/O. MAHADEVAPPA,
AGED ABOUT 48 YEARS
2. M. CHANDAN
S/O. MAHADEVAPPA,
AGED ABOUT 46 YEARS,
3. M. R. RAHUL,
S/O. M. MAHADEVAPPA,
AGED ABOUT 40 YEARS,

PETITIONER NO.2 AND 3 ARE
R/AT DOOR NO.256,
ARALIMARADAPALYA,
TUDA LAYOUT, SIRA GATE,
TUMAKURU-572 101

PRESENTLY R/AT 2ND CROSS,
2ND MAIN, KUVEMPUNAGARA,
TUMAKURU TOWN-572 103

4. RAJESHWARI,
W/O. M. MAHADEVAPPA,
AGED ABOUT 64 YEARS,
R/AT, DOOR.NO.256,
ARALIMARADAPALYA,
TUDA LAYOUT, SIRA GATE,

Digitally
signed by
SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA



CNR: KAHC010406872026

NC: 2026:KHC:40609
WP No. 18609 of 2026

TUMAKURU-572 101

...PETITIONERS

(BY SRI.S.MAHESH, ADVOCATE)

AND:

M.MAHADEVAPPA
S/O. LATE MUDDAPPA,
AGED ABOUT 59 YRS,
WORKING AS TRAFFIC CONTROLLER,
K.S.R.T.C TUMAKUR DEPOT,
TUMAKURU TOWN-572 101

...RESPONDENT

(BY SRI. KESHAV M DATAR, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE ORDER DATED: 06-06-2026, PASSED BY THE LEARNED PRL. SR. CIVIL JUDGE AND CJM, TUMKUR IN O.S. NO.69/2009, REJECTING THE I.A. FILED U/O. XVIII RULE 17 AND I.A. U/O. XVI RULE 6 AND 7 OF CPC FILED BY THE PLAINTIFF (VIDE ANNEXURE-F) AND ALLOW THE I.A.S AND PERMIT THE PLAINTIFF TO LEAD FURTHER EVIDENCE AS PER THE DOCUMENTS PRODUCED ALONG WITH I.A. FOR PRODUCTION OF DOCUMENTS.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



CNR: KAHC010406872026

NC: 2026:KHC:40609
WP No. 18609 of 2026

ORAL ORDER

Aggrieved by the order dated 06.06.2026 passed on I.A filed under Order XVIII Rule 17 read with Section 151 CPC and under Order XVI Rule 6 & 7 read with Section 151 CPC by the Principal Senior Civil Judge and CJM, Tumakuru, the petitioners/plaintiffs are before this Court.

2. The petitioners have filed a suit, i.e., O.S.No.69/2009 seeking the relief of partition and separate possession in respect of the suit schedule property. The application was filed to recall the plaintiffs' evidence, to summon the Salary Particulars of the defendant from KSRTC, Tumkur Division, and to give evidence. The trial Court, by the order impugned, dismissed the application.

3. While dismissing the application, the trial Court observed that the plaintiffs filed the suit for the relief of partition. The defendant, who was appearing as a party in person, filed his written statement. The evidence of both sides had already been concluded. The case was posted for arguments. At this juncture, the application was filed. The



CNR: KAHC010406872026

plaintiffs' evidence had been closed a long time ago. The case was at the fag end, and the applications were filed only to prolong the proceedings. Hence, the trial Court dismissed the application.

4. Learned counsel appearing for the petitioners submits that the order was not passed on the merits of the matter, but only because it was an old matter pending for a long time, the application was dismissed. Learned Counsel submits that when an application is filed, the Court has to pass orders on the merits of the matter. But on such grounds, the application cannot be dismissed. It is submitted that if the same is allowed, it would serve the ends of justice and no prejudice would be caused to the defendant.

5. Learned counsel appearing for the respondent/defendant submits that the application is so vague, and they have not stated what documents they intend to rely on, for what purpose, and why the evidence has to be reopened. It is submitted that after the application was dismissed, they have argued the matter, and the matter is



CNR: KAHC010406872026

NC: 2026:KHC:40609
WP No. 18609 of 2026

reserved for judgment. Once the matter is reserved for judgment, the question of recalling the same from that stage would not arise. He relied on the Division Bench judgment of this Court in ***Rabiya Bi Kassim M. Vs. The Country Wide Consumer Financial Service Ltd.,*** reported in ***ILR 2004 Kar 2215***, and he relied on paragraph No. 9 which reads as follows:

"9. On consideration, we are of the opinion that once the matter has been finally heard and posted for judgment, as held by the Supreme Court in Arjun Singh's case (supra) nothing is required to be done by the Court except to pronounce the judgment, and therefore the decision in Laxminarayan Enterprises case is not helpful. Admittedly, Clause (4) of Order 18 Rule 2, of CPC has been deleted and therefore the respondent-plaintiff cannot take advantage of Laxmin Arayan's case in the facts of the given case. Even if we assume it for the sake of argument without accepting, in view of the amendment in CPC, as we find, the law relating to procedure in suits and civil proceedings are governed by CPC. The CPC has been amended from time to time. Recently also, in order to cut short the delays at various levels in disposal of civil cases, CPC was amended by the Amendment Act of 1999 with effect from 1.7,2002. In the facts of the given case, sufficient opportunity was given to the plaintiff to complete his evidence, but he has not availed the opportunity at appropriate time and thereafter his evidence was closed. The case was fixed for defendant's evidence and ultimately the case was heard and reserved for judgment on 20.6.2001. In our view, if the matter is reserved for pronouncement of judgment, such an application is not maintainable as otherwise it will defeat the very object of amendment in speedy disposal of the cases."



6. Relying on this, it is submitted that as the matter was posted for judgment there is no question of passing orders in this case would arise.

7. Having heard learned counsel on either side, perused the material on record. The suit is of the year 2009. Evidence was closed long back. The petitioner has come up with this application. As rightly submitted by learned counsel for the respondent, no reasons are forthcoming from the affidavit filed as to why the case has to be reopened or why the documents are necessary in a suit for petition. Further, in the light of the judgment of the Division Bench of this Court in the case of ***Rabiya Bi Kassim M*** referred supra, as the matter is already posted for judgment, at this stage, the question of passing any orders in this matter would not arise. The submission of learned counsel for the petitioners that the trial Court has failed to record any reasons has to be rejected. The reasons stated for rejecting the application are sufficient. This Court finds no reason to interfere. Hence, this Court is passing the following:



CNR: KAHC010406872026

NC: 2026:KHC:40609
WP No. 18609 of 2026

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. All pending I.As., in the petition shall stand closed.

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

PKN
List No.: 3 Sl No.: 1