



CNR: KAHC010414902022

NC: 2026:KHC:47494
W.P. No.20922/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.20922/2022 (GM-CPC)

BETWEEN:

SMT. RAMA DEVI
W/O P.R. CHENNA REDDY
AGED ABOUT 50 YEARS
R/AT 2A, THOMAS MANOR
88, RICHMOND ROAD
BENGALURU-560025.

...PETITIONER

(BY SRI. SHIVAPRASAD SHANTANAGOUDAR, ADV.,)

AND:

1. SMT. S. PANKAJAKSHI
D/O SRINIVASIAH
W/O VENUGOPAL REDDY
AGED ABOUT 53 YEARS
R/AT NO.5, 14TH CROSS
PADMANABHANAGAR
BENGALURU-560070.
2. SRI. SRINIVASIAH .S
S/O LATE D. ASHWATHAPPA
AGED ABOUT 75 YEARS.
3. SRI. NARAYANASWAMY .S
S/O SRINIVASIAH
AGED ABOUT 54 YEARS.

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010414902022

NC: 2026:KHC:47494
W.P. No.20922/2022

4. SRI. HARISH .S
S/O SRINIVASIAH
AGED ABOUT 50 YEARS.

R2 TO R4 ARE R/AT
KODEGEHALLI VILLAGE
YELAHANKA HOBLI
BENGALURU NORTH TALUK
BENGALURU DISTRICT.

5. SRI. MUNEGOWDA
S/O LATE A. APPANNA
AND LATE ASHWATHAMMA
AGED ABOUT 57 YEARS
R/AT NO.229-230, 4TH CROSS
KALAMANDIRA ROAD, JAKKUR
BENGALURU NORTH-560064.

...RESPONDENTS

(BY SRI. PRAKASH M.H. ADV., FOR C/R1
V/O/DTD:18.11.2022, NOTICE TO R2 TO R5 ARE D/W)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER DTD 30.07.2022 PASSED BY XVIII ADDL. CITY CIVIL JUDGE, BENGALURU ON I.A.NO.5 FILED UNDER ORDER VI RULE 16 OF CPC IN O.S.NO.3199/2017 ANNEXURE-A. ALLOW I.A.NO.5/2021 FILED BY THE PETITIONER UNDER ORDER VI RULE 16 OF CPC AND THEREBY STRIKE OUT THE PLEADINGS AT PARAGRAPH 9-13 AND PRAYER b AND d IN THE PLAINT IN O.S.NO.3199/2017 & 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 challenging the order dated 30.07.2022 passed on I.A.No.5 in O.S.No.3199/2017 by XVIII Additional City Civil Judge, Bengaluru, (for short, ***'the trial Court'***).

2. Heard Sri.Shivaprasad Shantanagoudar, learned counsel appearing for the petitioner; Sri.Prakash M.H., learned counsel appearing for the caveator-respondent No.1 and perused the material available on record.

3. Respondent No.1-plaintiff filed the suit in O.S.No.3199/2017 seeking the relief of declaration that the plaintiff is entitled for 1/4th share in the suit schedule properties and to effect the partition. The second prayer in the suit is to declare that the southern boundary of the sale deed dated 26.04.1974 and other sale deeds pursuant to thereon, as wrong, incorrect and baseless and that the



CNR: KAHC010414902022

NC: 2026:KHC:47494
W.P. No.20922/2022

said southern boundary to be read as "remaining land of the plaintiff and defendants 1 to 3 in Sy.No.183/3B" as described in the sale deed dated 28.07.1957 to an extent of 1 acre 4 guntas in Sy.No.183/3B and other reliefs. In the said suit, the petitioner, who is the purchaser of the property, has been arrayed as defendant No.4. The material on record indicates that late D.Ashwathappa was the kartha of the family and the plaintiff is the grand daughter and defendant No.1 is the son of the late D.Ashwathappa; defendant Nos.2 and 3 are also the grandchildren of the kartha of the family and the other defendants are the purchasers of the property. In the said suit, petitioner-defendant No.4 filed an application under Order VI Rule 16 of the Code of Civil Procedure, 1908 (for short, '**the CPC**') seeking prayer to strike off the pleadings relating to defendant No.4 in para Nos.9 to 13, prayers (b) & (d) of the plaint in respect of suit 'B' schedule property. The said application was opposed by the plaintiff. The trial Court, under the impugned order, rejected the said



application, mainly on the ground that the assertion made by petitioner-defendant No.4 is a factual aspect and same is required to be gone into during the course of trial.

4. It is to be noticed that the respondent No.1-plaintiff in prayer (b) is seeking declaration that the southern boundary of the sale deed dated 26.04.1974 and other sale deeds executed with regard to the same property is wrong, incorrect and baseless and that the remaining land is left to the plaintiff and other defendants.

5. It is to be noticed that the deceased Ashwathappa had filed a suit in O.S.No.1790/1996 against one Sri.Krishnappa and others, and in the said suit, the petitioner herein was arrayed as defendant No.10. The said suit was for the relief of permanent injunction restraining the defendants from obstructing the plaintiff from using the road formed in Sy.No.183/3B of Kodigehalli Village. The said suit came to be decreed vide judgment dated 30.06.2012 by restraining the defendants therein



NC: 2026:KHC:47494
W.P. No.20922/2022

from interfering with the plaintiff's use and enjoyment of the road of 3 yard in width formed out of the southern portion of Sy.No.183/3B of Kodigehalli Village, starting from Thindlu road running up to the common western boundary i.e., Government halla. Thereafter, the legal heirs of the deceased Sri.Ashwathappa have filed the execution proceedings and the same is pending.

6. The material on record indicate that Sri.Ashwathappa was the kartha of the family who filed the suit in O.S.1790/1996 for the relief of permanent injunction. In the said suit, Sri.Ashwathappa claims the right over 3 yards of road. In other words, Sri.Ashwathappa had admitted that the property in question has been sold in favour of Sri.Chowdappa in the year 1957 and thereafter, hands have been changed, and in the year 2005, the petitioner herein purchased the said property under the registered sale deed. The kartha of the family had admitted the earlier alienation and having



restricted his prayer for injunction only with regard to the 3 yards of road on the southern portion of the property referred in the sale deed dated 1957, now the grand daughter of the kartha of the family cannot contend and seek the relief of declaration that the southern portion of the sale deed in favour of the petitioner and remaining land is of the plaintiff and defendant Nos.1 to 3 in Sy.No.183/3B as described in the sale deed dated 28.07.1957 to the extent of 1 acre 4 guntas in Sy.No.183/3B. The attempt of bringing the aforesaid property within the purview of the suit filed by the respondent No.1 is an abuse of process of the Court which falls within the scope of Order VI Rule 16 of the CPC.

7. It is to be noticed that the plaintiff in the present suit has cleverly drafted the prayer (b) in the plaint. The prayer (b) does not clearly indicate as to whether the plaintiff is seeking that the sale deed executed by the Kartha of the family and later transfer of



NC: 2026:KHC:47494
W.P. No.20922/2022

CNR: KAHC010414902022

property up to defendant No.4 are null and void and in the absence of any such prayer, the relief of declaration that the southern boundary of the sale deed dated 26.04.1974 and other sale deeds are wrong, incorrect and baseless and the remaining land is of the plaintiff and defendant Nos.1 to 3 cannot be granted.

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

ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned order dated 30.07.2022 passed on I.A.No.5 in O.S.No.3199/2017 by XVIII Additional City Civil Judge, Bengaluru, set aside. Consequently, application in I.A.No.5 filed by the petitioner-defendant No.4 under Order VI Rule 16 of the CPC is allowed. The paragraph Nos.9 to 13 as well as prayer (b) and



CNR: KAHC010414902022

NC: 2026:KHC:47494
W.P. No.20922/2022

(d) of the plaint are struck off insofar as schedule 'B' property is concerned.

iii. The aforesaid finding will not come in the way of executing the judgment and decree in O.S.No.1790/1996.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 36