



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 20369 OF 2026 (GM-CPC)

BETWEEN:

MR. D.KRISHNA
S/O. LATE DUGGAPPA
AGED ABOUT 69 YEARS,
R/O D NO. 337/21,
M.C.C. BLOCK, KUVEMPUNAGAR,
DAVANGERE CITY
DAVANAGERE -577 001

...PETITIONER

(BY SRI. VIVEKANANDA N., ADVOCATE)

AND:

1. MRS. USHA SUNDAR P.,
W/O. SHAMASUNDAR.,
D/O D. KRISHNA,
AGED ABOUT 42 YEARS,
R/AT41, PHASE 2,
THE ODION WOODS OF EAST.
SARJAPUR ROAD,
CHIKKANAYAKANAHALLI,
BANGALURU-560 035
2. MR. ABHILASH D.K.,
S/O. D. KRISHNAPPA,
AGED ABOUT 39 YEARS,
R/AT D NO. 337/2021, M.C.C. BLOCK
KUVEMPUNAGAR, DAVANGERE CITY
DAVANAGERE -577 001



3. MR D.K.KIRAN
S/O. D. KRISHNAPPA,
AGED ABOUT 37 YEARS,
R/AT. D.NO.337/21, M.C.C. BLOCK,
KUVEMPUNAGAR,
DAVANGERE CITY
DAVANAGERE -577 001

...RESPONDENTS

(BY SRI.SANTHOSH R.NELKINDRI, ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF CONSTITUTION OF INDIA, PRAYING TO SETTING ASIDE THE ORDER DATED 07-04-2026 PASSED BY THE LEARNED PRINCIPAL SENIOR CIVIL JUDGE AND CJM AT DAVANAGERE, IN O.S.NO.397/2023 ON IA NO.2 PRODUCED AT ANNEXURE-A.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order dated 07.04.2026 passed in I.A.No.2 in O.S.No.397/2023 by the Principal Senior Civil Judge and CJM, Davanagere, the petitioner/defendant No.1 is before this Court.

2. The respondent No.1 herein, who is the daughter of the petitioner herein, has filed O.S.No.397/2023 for partition and separate possession, and consequently, it is held that the alleged registered gift deed dated 26.11.2021 executed by defendant No.1 in favour of defendant Nos.2 and 3 is not



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binding on the plaintiff and mesne profits. In the suit, the plaintiff has filed I.A.No.II seeking direction to defendant No.1 to deposit the entire rental income of Rs.2,00,000/- per month derived from the suit schedule property. In the affidavit filed in support of the application, it is stated that the suit is filed seeking partition and separate possession of 1/4th equal share in the suit schedule property, by holding that the alleged gift deed dated 26.11.2021, allegedly executed by her father, i.e., defendant No.1, in favour of defendant Nos.2 and 3, is not binding on the plaintiff to the extent of the legitimate undivided share in the suit schedule property. It is stated that the suit schedule property consists of the ground floor, 1st floor, and 2nd floor, and all of them have been let out to the tenants on a rental basis by the 1st defendant, who has been managing the affairs of the said property and collecting rent every month from the respective tenants. As such, the application is filed seeking direction to defendant No.1 to deposit the entire rental income of Rs.2,00,000/- per month derived from the suit schedule property in order to prevent defendant No.1 from misappropriating the same and also to aid the main relief sought in the suit.



3. The trial Court, by the impugned order, allowed I.A.No.2. While allowing the application, the trial Court observed that on careful perusal of the pleadings of both the parties, it appears that although the defendants contended that the suit schedule property is an absolute property of defendant No.1, they did not deny that the suit schedule property is owned by defendant No.1 under a partition deed in the year 1996, and further contended that defendant No.1 has been enjoying the suit schedule property as an absolute owner since the date of partition in the year 1996. This admission of the defendants clearly shows that defendant No.1 owned the suit schedule property under a family partition. Furthermore, it is not the case of the defendants that the photographs annexed to the application filed by the plaintiff is not the suit schedule property, nor have they accrued any rental as stated by the plaintiff. Under such circumstances, prima facie, it appears that the plaintiff, being the daughter of defendant No.1, is also entitled to her share in the suit schedule property. However, the final adjudication is pending, and the contention of the defendants regarding the absolute ownership of defendant No.1 over the suit schedule property will be decided after the full-



fledged trial. Accordingly, the trial Court allowed the application.

4. Learned counsel appearing for the petitioner submits that the defendant has taken a definite stand. He submits that the property was purchased by him by way of a registered sale deed in the year 1976 and that, ever since, he has been in possession of the property. According to him, the partition was affected in the year 1996. But the property was purchased in the year 1976, and he is the absolute owner of the property. Considering that the sale deed was executed and that the property was purchased by way of a registered sale deed, and that he has been enjoying the property for several decades, at this point of time, without even coming to a prima facie conclusion with regard to the nature of the property, the Court ought not to have passed an order directing the petitioner to deposit the rental amount.

5. Learned counsel appearing for respondent No.1/ plaintiff submits that the petitioner/defendant No.1, who is the father of the plaintiff, has executed a gift deed in favour of the other defendants, thereby depriving the plaintiff of her



legitimate share, which made her to come before the Court by filing a partition suit. It is submitted that this contention regarding the sale deed of the year 1996 was not earlier taken up by the petitioner. It is further submitted that if the Court comes to the conclusion that the plaintiff is entitled to partition, at that point, the petitioner will not be in a position to recover the same. Hence, the trial Court has rightly passed the order.

6. Having heard the learned counsels on either side, perused the entire material on record. The suit is filed seeking partition, separate possession, and a declaration that the registered gift deed dated 26.01.2021 executed by defendant No.1 is not binding on the plaintiff. It is the case of the plaintiff that the suit schedule properties are joint family properties and that the properties fell to the share of the father in the partition that took place in the year 1996. It is the case of the defendant that the property is a self-acquired property purchased in the year 1976 and that, ever since, he has been in possession and enjoyment of the property. The trial Court, while passing the order, failed to consider this aspect. At the same time, this Court is conscious of the fact that the plaintiff has sought



mesne profits. In the facts and circumstances, passing an order directing the petitioner to deposit the rent before the Court is not a well-considered order. Considering the fact that the sale deed is of the year 1996, balancing the interests of both the parties, this Court is passing the following order:

ORDER

- i. The order dated 07.04.2026 passed in I.A.No.2 in O.S.No.397/2023 by the Principal Senior Civil Judge and CJM, Davanagere, is ***set aside***.
- ii. However, the petitioner, by way of an affidavit, shall state before the court, the complete details regarding the rental amounts derived from the suit schedule property. If there is any change, he shall periodically file the affidavit.
- iii. Accordingly, the writ petition is ***disposed of***.
- iv. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE