



CNR: KAHC010456892019

NC: 2026:KHC:39090
W.P. No.52810/2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 28TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.52810/2019 (GM-CPC)

BETWEEN:

1. SMT. JAYAMMA
W/O LATE R. MUNIYAPPA
AGED ABOUT 60 YEARS.
2. SMT. R.M. BHAGYALAKSHMI
D/O LATE R. MUNIYAPPA
W/O G. THYAGARAJ
AGED ABOUT 40 YEARS.
3. SRI. R.M. LOKESH
S/O LATE R. MUNIYAPPA
AGED ABOUT 38 YEARS.
4. R.M. MANJULA
D/O LATE R. MUNIYAPPA
AGED ABOUT 36 YEARS.
5. SRI. R.M. HARISH
S/O LATE R. MUNIYAPPA
AGED ABOUT 34 YEARS.

ALL ARE R/AT NO.82/1
ITI LAYOUT, 7TH CROSS
1ST PHASE, J P NAGARA
BENGALURU-560078.

...PETITIONERS

(BY SRI. C.V. MANJUNATHA, ADV.,)

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA



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AND:

1. SMT. M. TULASI
W/O SRI. RAJASHEKAR
D/O LATE MUNNARASAPPA
AND LATE VASUNDARAMMA
AGED ABOUT 40 YEARS
R/AT NO.49, SINGAPURA MAIN ROAD
SINGAPUR LAYOUT, VIDYARANYAPURA
BENGALURU-560097.
2. SRI. RAGHAVENDRA
S/O LATE MUNNARASAPPA
AND LATE VASUNDARAMMA
AGED ABOUT 39 YEARS
R/AT NO.22, GROUND FLOOR
9TH CROSS, CUBBON PET
BENGALURU-560002.
3. SMT. M. DHANALAKSHMI
W/O A.V. RAVIKUMAR
D/O LATE MUNNARASAPPA
AND LATE VASUNDARAMMA
AGED ABOUT 32 YEARS
R/AT NO.4/126, MASJID ROAD CROSS
NEAR CHOWDESHWARI TEMPLE
YELAHANKA, BENGALURU-560064.
4. SMT. R. PRAMILA
AGED ABOUT 68 YEARS
W/O LATE V. CHANNAKRISHNAPPA
R/AT NO.12, 1ST MAIN ROAD
(SRI HAKKA RASTHE)
BINNY LAYOUT, HAMPI NAGAR
VIJAYANAGARA II STAGE
BENGALURU-560104.
5. SRI SOMASHEKAR
S/O LATE MUNNARASAPPA
AND LATE VASUNDARAMMA



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NC: 2026:KHC:39090
W.P. No.52810/2019

AGED ABOUT 44 YEARS
R/AT NO.22, THIRD FLOOR
9TH CROSS, CUBBON PET
BENGALURU-560002.

...RESPONDENTS

(BY SRI. GURUPRASAD C. REDDY, ADV., FOR
SRI. M.V. CHANDRASHEKAR REDDY, ADV., FOR R1 TO R3
SMT. RASHMI K, ADV., FOR
SRI. M.K. SHIVARAJU, ADV., FOR R4
R5 SERVED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED
ORDER ANNEX-A DATED 27.03.2019, PASSED BY THE HON'BLE
XXV ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU
(CCH-23) ON IA NO.2 IN O.S.NO.2659/2017 AND
CONSEQUENTLY ALLOW THE IA NO.2, FILED BY THE
PETITIONERS/DEFENDANTS NO.1 TO 5 & 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 petition is filed seeking the following reliefs:

"a) *Quash the impugned order Annexure
'A' dated 27.03.2019, passed by the Hon'ble
XXV Additional City Civil & Sessions Judge,
Bengaluru (CCH-23) on IA.No.2 in
OS.No.2659/2017 and consequently allow the
IA.No.2, filed by the petitioners/defendant
No.1 to 5.*

b) *Issue any other writ order or direction
as this Hon'ble court as deems fit in the*



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circumstances of the case in the interest of justice and equity."

2. Heard the learned counsel for the petitioners, the learned counsel for the respondents and meticulously perused the material on record.

3. Respondent Nos.1 to 3 filed a suit seeking partition and separate possession of the suit schedule properties. In the said suit, the petitioners are arrayed as defendant Nos.1 to 5. Defendant Nos.1 to 5 filed a detailed written statement denying averments made in the plaint by contending that there was an earlier partition on 15.09.1975, under which certain properties were allotted to the defendants' grandmother, and that she had executed gift deeds in their favour, under which they are in possession and enjoyment of the suit schedule properties. Thereafter, defendant Nos.1 to 5 filed an application under Section 11 of the Karnataka Court Fees and Suits Valuation Act, 1958 contending that the suit had not been properly valued, as the plaintiffs were not in



possession of the suit schedule properties. The plaintiffs opposed the said application, contending that in the plaint, they specifically pleaded that they are in joint possession of the suit schedule properties. The trial Court, under the impugned order dismissed the application.

4. It is to be noticed that the defendants have specifically pleaded that the plaintiffs are not in possession of the suit schedule properties which has been denied by the plaintiffs. In view of the aforesaid assertion, I am of the considered view that the trial Court is required to frame an issue on the suit valuation and payment of court fee, and the said issue is required to be tried along with the other issues in the suit. My view gains support from the decision of the Full Bench of this Court in the case of **Venkatesh R. Desai v. Smt.Pushpa Hosmani and Others¹**. In view of the aforesaid observations, I proceed to pass the following:

¹ ILR 2018 Karnataka 5095



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ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned order dated 27.03.2019 passed on IA.No.2 in OS.No.2659/2017 by the XXV Additional City Civil & Sessions Judge, Bengaluru (CCH-23) is hereby set aside. Consequently, IA.No.2 filed by defendant Nos.1 to 5 under Section 11 of the Karnataka Court Fees and Suits Valuation Act, 1958 is disposed of by directing the trial Court to frame the issue on court fee and try the same along with the other issues.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 19