



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 20884 OF 2026 (GM-CPC)

BETWEEN:

SRI. GURUPRASAD
S/O. LATE S. RAMESH RAO,
AGED ABOUT 49 YEARS,
R/AT GANGA PRASAD,
SITE NO.604, 3RD BLOCK,
KATIPALLA, MANGALURU,
D.K.DISTRICT - 575 030.

...PETITIONER

(BY SRI. S. PRAKASH SHETTY, ADVOCATE)

AND:

1. MR.MOHAN SHETTY
S/O. LATE MUDDANNA SHETTY,
AGED ABOUT 62 YEARS,
R/AT RAJDHANI,
BAJPE VILLAGE AND POST,
MANGALURU - 574 142
2. MR. HARIPRASAD SHETTY,
S/O. LATE. SUBASH SHETTY,
AGED ABOUT 51 YEARS,
R/AT NALYA PADAVU,
SHAKTHINAGAR,
MANGALURU - 575 016.



3. THE STATE OF KARNATAKA
REP. BY DEPUTY COMMISSIONER,
MANGALURU - 575 007.
4. MR. GURUPRASAD PANIKKAR,
S/O. K.GOPALA PANIKKAR,
AGED ABOUT 57 YEARS,
R/AT 6 (155), KALYANI,
COURT ROAD, ABHINANDANA NAGAR,
BELTHANGADI,
D.K. DISTRICT - 574 214.
5. MR. DIVAKAR ACHARYA,
S/O. LATE. BHOJA ACHARYA,
AGED ABOUT 55 YEARS,
R/AT GANDHINAGARA,
VIDYAGIRI, MOODABIDRI TALUK,
D.K.DISTRICT - 574 227.

...RESPONDENTS

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS PERTAIN TO ORDER DATED 19-6-2026 MADE IN IA NO.10 IN O.S.NO.25/2024 PASSED BY THE COURT OF SENIOR CIVIL JUDGE AND JMFC MOODBIDRI AND ETC.

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 orders passed on IA No.10 in OS No. 25/2024 dated 19.06.2026 by the Senior Civil Judge and JMFC, Moodabidri, the plaintiff is before this Court.

2. The petitioner herein, who is the plaintiff has filed the suit seeking declaration of his title to the suit schedule property and also sought for relief of declaration that the plaintiff is the absolute owner of the plaint schedule property and for permanent prohibitory injunction restraining the defendants, their mens, servants, agents or anyone claiming through or under them from in any way manner locking or interfering with the daily pujas, vinyogas, periodical ganahomas, rituals of the temple situated in the plaint schedule property in any manner.

3. In the said suit, the application is filed under Order I Rule 10(2) R/w Section 151 of the CPC by the proposed applicants, who wants to be implead them as defendant Nos.4 and 5 stating that they are residing in the commercial property, which is in the suit schedule property as it is a Government land and they have been in occupation of the property. When



the plaintiff herein has filed a suit for eviction, they have denied the title of the plaintiff and the landlord-tenant relationship. It is their case that they have been residing there. In their individual capacity, when the defendants are denying the title of the plaintiff, and now the present suit is filed seeking declaration of his title to the property according to the impleaded applicants, they are proper and necessary parties to the suit. That application came to be allowed by the order impugned.

4. While allowing the application, the Trial Court has observed that admittedly, the plaintiff has filed an eviction suit against the proposed defendants and the same is pending for consideration. In the eviction suit, the proposed defendants have denied the title of the plaintiff and also denied the landlord-tenant relationship. Apart from the eviction suit, there were other proceedings, i.e. WP No. 9939/2020 and another suit for OS No. 48/2025 and proceedings before the Deputy Commissioner in RAP No. 17 of 2019-2020. In all the above proceedings, the proposed defendants Nos.4 and 5 has been contesting the proceedings against the plaintiff. Under such circumstances, the proposed defendants cannot be considered



as strangers. The plaintiff himself admitted that the proposed defendants are in possession of the portion of the suit schedule property as tenants. On the other hand, the proposed defendants have denied the landlord-tenant relationship, and they are claiming that they are in possession of the suit schedule property not as a tenant under the plaintiff, but the suit schedule property belongs to defendant No.3. The said contention of the proposed defendants is to be adjudicated in an effective manner. In order to adjudicate the said disputed questions of fact, the presence of the proposed defendants is necessary. In the eviction proceedings, i.e. SC Nos. 66/2023, and 68/2023, the question of title of the plaintiff may be incidentally in issue. It will be proper to adjudicate the question of title in a comprehensive suit for declaration filed by the plaintiff. Under such circumstances, in order to adjudicate all the contentions of the parties, it is just and necessary to implead the proposed defendants in the present suit, in order to avoid multiplicity of proceedings and divergent judicial findings, and accordingly, the IA is allowed.

5. Learned counsel appearing for the petitioner/plaintiff submits that he has sought the reliefs



against defendants Nos.1 to 3 and he has not sought any relief against the defendant Nos.4 and 5. When the petitioner is not seeking any relief against the impleaded applicants, they are neither proper nor necessary parties to the proceedings. It is the submission of the learned counsel for the petitioner that in the eviction suits, when they have denied the title, and they have also filed an IA questioning the jurisdiction of the court that came to be dismissed and against that the writ petition is filed, and the order of the Trial Court is affirmed by this Court in the writ petition. It is further submitted that only with an intention to drag on the proceedings and to retain the possession of the property. They are coming up with one after the other proceedings, and the Court has failed to consider all these aspects only on the ground that there are certain proceedings where both the parties are contesting the matters, has allowed the application. It is submitted that in the present suit, no relief is sought against defendants Nos.4 and 5. Hence, they are not proper and necessary parties.



6. In this regard, he has relied on the judgment of the Apex Court in ***Kasturi vs. Iyyamperumal and others***,¹. He has relied on another judgment of the Karnataka High Court in ***Smt. Kalavathi Rathnakar Sate vs. Smt. Ambujamma***².

7. Relying on these judgments, it is submitted that the petitioner is neither a proper nor a necessary party and the Court, without considering all these aspects, had allowed the application.

8. Having heard the learned counsel for the petitioner, perused the material on record. The suit is one for declaration and also a permanent prohibitory injunction. The admitted fact in this case are that the impleaded applicants are in possession of the property, and the suit is filed seeking eviction of the impleaded applicants. In the said suit, it is the consistent case of the implead applicants, that the plaintiff in this suit are not the owners of the property and they set up their own title to the property. The eviction proceedings are pending consideration. When the suit for declaration is filed, when

¹ (2005) 6 SCC 733

² (2001) 2 Kant LJ 262



already in the pending proceedings, a party is denying the title to the property and setting up his own title, he is definitely a proper and necessary party. The court has rightly observed, that if the proposed party files a suit there is every scope for multiplicity of proceedings and of separate/divergent judgments, if the applicant is impleaded in this case, the dispute between the parties can be amicably settled in a better manner, and he is a proper party. His presence is very much required to adjudicate the dispute of declaration of title. As far as the second relief is concerned, no doubt relief is not sought against the defendants. These defendants have nothing to do with that. But as far as the main relief of declaration is concerned, for that, these implead applicants are proper and necessary parties, and the Court has rightly allowed the application. The petitioner has relied on certain judgments; the ***Kasturi*** judgment referred supra relates to a suit for specific performance, and all other judgments also do not apply to the facts of this case. It all depends upon the facts and circumstances of each case, and there cannot be uniform application of the precedents to every case.



9. In that view of the matter, this Court do not find any reasons to interfere with the impugned order passed by the Trial Court.

10. In view of the above discussions, this Court is passing the following:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. Pending IAs, if any, shall stand closed.

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

SMC
List No.: 1 Sl No.: 11