



CNR: KAHC010470572022

NC: 2026:KHC:41982
WP No. 20423 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 20423 OF 2022 (GM-CPC)

BETWEEN:

SMT PUTTAGANGAMMA @ GANGAMMA
W/O LATE SHIVANNA SINCE DEAD BY LRS

1. SRI G S MANJUNATH
S/O LATE SHIVANNA
AGED ABOUT 51 YEARS
NO.18, MANJUNATHA NILAYA
1ST MAIN, GEETHA CLINIC ROAD,
6TH CROSS, DEVASANDRA
K R PURAM
BENGALURU - 560 036

2. SRI G S SURESH
S/O LATE SHIVANNA
AGED ABOUT 44 YEARS
NO.205, DWARAKANAGARA
BAGALUR MAIN ROAD
YELAHANKA
BENGALURU - 560 063

...PETITIONERS

(BY SRI. JAYASIMHA K.S., ADVOCATE)

AND:

1. SMT NEELAMBIKA
W/O LATE S NEELAKANTIAH
AGED ABOUT 61 YEARS

Digitally signed
by
ANNAPURNA
G
Location: High
Court of
Karnataka



CNR: KAHC010470572022

NC: 2026:KHC:41982
WP No. 20423 of 2022

2. SRI B N NANDISH
S/O LATE S NEELAKANTIAH
AGED ABOUT 39 YEARS

3. SRI B N VIJAY
S/O LATE S NEELAKANTIAH
AGED ABOUT 35 YEARS

SL. NO.1 TO 3 ARE RESIDING
AT NO.664, 7TH A MAIN,
NAGARABHAVI 2ND STAGE
9TH BLOCK,
NEAR BANDE MARAMMA TEMPLE
BENGALURU - 560 071

4. SMT B N MANJULA
D/O LATE S NEELAKANTIAH
W/O NEELAKANTA SHARMA
AGED ABOUT 43 YEARS
NO.1037, 4TH M BLOCK
DR. RAJKUMAR ROAD
RAJAJINAGAR
BENGALURU - 560 010

5. CANARA BANK
VIJAYANAGAR BRANCH
BANGALORE - 560 040
REP BY ITS BRANCH MANAGER

...RESPONDENTS

(BY SRI. SANJIVA V. BELAGAVI, ADVOCATE FOR R1 TO R4
R5 SERVED)



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THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 23.09.2022 PASSED IN O.S.NO.4864/2003 PENDING ON THE FILE OF XIV ADDL. CITY CIVIL JUDGE (CCH-28), BENGALURU VIDE ANNEX-G AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, 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 23.09.2022 passed in O.S.No.4864/2003 on the file of the XIV Additional City Civil Judge (CCH-28), Bengaluru (hereinafter referred to as the 'trial Court' for short).

2. Heard Sri Jayasimha K.S., learned counsel for the petitioners and Sri Sanjiva V Belagavi, learned counsel for respondent Nos.1 to 4.

3. The petitioners filed a suit in O.S.No.4864/2003 seeking the relief of declaration that the Sale Deed dated



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WP No. 20423 of 2022

08.11.2001, alleged to have been executed by the plaintiff/late Smt. Puttagangamma in favour of defendant No.1/Late Sri Neelakantaiah, is null and void and not binding on the plaintiff, and for cancellation of the said document as it is vitiated by fraud and other reliefs. In the said suit, the parties have adduced evidence and arguments were advanced. At that stage, the trial Court passed the impugned order on 23.09.2022 directing the plaintiff to take steps to produce the original Sale Deed dated 08.11.2001 before the Court.

4. Further, the Court directed the defendant to examine the attesting witness to Ex.P1 to prove its due execution and also to take steps to produce the power of attorney executed by Sri Hanumanthappa in favour of the plaintiff, on the basis of which the Sale Deed is said to have been executed by the plaintiff in his favour. It is further directed that defendant No.2 is at liberty to get the attesting witness to Ex.P1 examined, on the failure of defendant No.1 to examine the attesting witness.



CNR: KAHC010470572022

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WP No. 20423 of 2022

5. It is to be noticed that the plaintiff in the aforesaid suit had filed an application under Order XVI Rule 6 read with Section 151 of the Code of Civil Procedure (for short, 'CPC') seeking to summon the original Sale Deed dated 08.11.2001 from defendant No.1. The said application came to be rejected by the trial Court vide order dated 06.07.2017, which was assailed by the petitioners in W.P.No.36349/2017 and this Court dismissed the said petition on 06.04.2022.

6. It is the case of the plaintiff that the original Sale Deed, ie., Ex.P1, is in the possession and custody of defendant No.1, and sought to produce the same and the prayer for production of the said document was rejected by trial Court. The said order has attained finality in W.P.No.36349/2017. Ignoring the aforesaid aspects, the trial Court proceeded to direct the plaintiff to take steps to produce the original Sale Deed dated 08.11.2001 and further directed the defendants to examine the attesting witness.



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7. It is also to be noticed that the suo motu order passed by the trial Court was at the stage when the matter was posted for judgment. In my considered view, the trial Court ought to have proceeded to pass the judgment based on the pleadings and evidence available on record and should not have ventured into directing the plaintiff to produce the document which, according to him, is not in his possession. In this regard, reliance is placed on the decision of this Court in the case of ***RABIYA B KASSIM M. vs. THE COUNTRY WIDE CONSUMER FINANCIAL SERVICE LIMITED***¹.

8. The learned counsel for respondent No.1 to 4, who are the defendants in the suit, also submits that they seek to allow the petition. The said submission is placed on record. In view of the preceding analysis and the aforesaid submission, I proceed to pass the following:

¹ ILR 2004 KAR 2215



CNR: KAHC010470572022

ORDER

- a) The writ petition is ***allowed***.
- b) The impugned order dated 23.09.2022 passed in O.S.No.4864/2003 on the file of the XIV Additional City Civil Judge (CCH-28), Bengaluru, is hereby set aside.
- c) The trial Court shall proceed further in the matter in accordance with law.

No order as to cost.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

SHS
List No.: 1 Sl No.: 13