



CNR: KAHC010487572026

NC: 2026:KHC:39614
WP No. 22298 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 22298 OF 2026 (GM-CPC)

BETWEEN:

CHIKKEGOWDA
DEAD BY HIS LRS

1. JAYARAMU
SON OF LATE. CHIKKEGOWDA,
AGED ABOUT 51 YEARS,

2. M.C. SOMASHEKARA
SON OF LATE. CHIKKEGOWDA,
AGED ABOUT 49 YEARS,

3. M.C. MAHESHA
SON OF LATE. CHIKKEGOWDA,
AGED ABOUT 47 YEARS,

ALL ARE RESIDING AT MAYAPANAHALLI VILLAGE
BASARALU HOBLI,
MANDYA TALUK,
MANDYA DISTRICT - 571 401

...PETITIONERS

(BY SRI. RAJA L., ADVOCATE)

AND:

1. SMT. JAYAMMA
WIFE OF NINGEGOWDA,
AGED ABOUT 65 YEARS,

Digitally signed
by SUVARNA T
Location: HIGH
COURT OF
KARNATAKA



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R/O MAYAPANAHALLI VILLAGE
BASARALU HOBLI,
MANDYA TALUK,
MANDYA DISTRICT - 571 401

2. PANCHAYATH DEVELOPMENT OFFICER
DODDAGARUDANAHALLI PANCHAYATH,
MANDYA TALUK,
MANDYA DISTRICT - 571 401

...RESPONDENTS

(BY SRI. MAHANTESH B. HOSMATH, ADVOCATE FOR C/R1)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET- ASIDE THE ORDER PASSED BY THE PRL. CIVIL JUDGE AND JMFC, AT MANDYA IN I.A. NO.VIII, IN O.S. NO.935/2015 IN ORDER DATED 25-06-2026, VIDE ANNEXURE -G, GRANT AN INTERIM ORDER TO STAY FURTHER PROCEEDINGS IN O.S. 935/2015 ON THE FILE OF THE PRL. CIVIL JUDGE AND JMFC, AT MANDYA, VIDE ANNEXURE-G, IN THE INTEREST OF JUSTICE AND EQUITY.

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 passed on IA No.VIII in OS No.935/2015 dated 25.06.2026 by the Principal Civil Judge and JMFC, Mandya, the petitioner- plaintiff is before the court.

2. The petitioner has filed a suit seeking a declaration that the suit D-Schedule property is a public road meant for



ingress and egress of the plaintiff, defendants, and the public at large, and, consequently, seeking the relief of a permanent injunction restraining the defendants, their agents, servants, or anyone on their behalf from either encroaching upon the suit D-Schedule road portion or putting up any kind of construction over the same. After the evidence was completed, the present application was filed seeking the appointment of a Court Commissioner.

3. IA No. VIII is filed under Order XXVI Rule 9 of the CPC to appoint a Court Commissioner to survey the suit property, ascertain the existence of the road property, and answer the memo of instruction to the parties.

4. The court, by the order impugned, had dismissed the said application. The court observed that when the court cannot decide disputed facts on the basis of the available record and evidence placed by both the parties, only then can the court seek the help of the Commissioner to submit a report on the point in dispute to decide the dispute in a satisfactory manner. Whereas in this case, though the evidence of both the parties has been completed, when the case was posted for



argument, without arguing the matter, the plaintiff has filed this application. On that basis, the court noticed that the plaintiff was intended to drag on the proceedings. Even if a Commissioner is appointed and a report is submitted, it will not be helpful in settling the disputes on the basis of the Commissioner's report. The court has decided the suit by considering both the parties' evidence, such as documentary and oral evidence. Accordingly, the court has dismissed the application.

5. Learned counsel appearing for the petitioners submits that if the Commissioner is appointed and a report is placed before the court, it would be helpful for the court to decide the dispute. As rightly observed by the court, the Commissioner's report is not conclusive, but it would be helpful for the court. It is submitted that, in light of the litigation between the parties, there would be a quietus to the litigation and the court, without considering all these aspects, had dismissed the application.

6. Learned counsel appearing for the defendants submits that the court has rightly dismissed the application. In



the earlier rounds of litigation, the petitioner herein could not prove that there is an existing road. In fact, according to the learned counsel for the defendants, there are observations in the previous litigation to the effect that he could not prove that no scrap of paper was produced to show the existence of the road. It is submitted that, in those circumstances, the present application is filed only to drag on the proceedings, and this aspect has been rightly appreciated by the Court, and dismissed the application. There are no grounds to interfere.

7. Having heard the learned counsel on either side, perused the material on record.

8. The suit is for a declaration of the easementary right of the petitioner. No doubt, there have been previous litigations, including the suit for injunction filed by the defendant herein, the writ petition filed by the petitioner, and the complaint filed by the plaintiff herein. There is a persistent conflict regarding the easement between the plaintiff and the defendant in various proceedings. Evidence has been adduced, and the matter is now posted for argument. At this stage, if the Commissioner is appointed and the Commissioner's report



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would help the court decide the dispute between the parties in a more effective manner and there is no prejudice to any of the parties, the court ought to have allowed the application.

9. In that view of the matter, this Court is passing the following:

ORDER

- i. Accordingly, the writ petition is ***allowed***.
- ii. The order dated 25.06.2026 passed in OS No.933/2015 on IA No.VIII is set aside. Consequently, IA No.VIII is ***allowed***.
- iii. The plaintiff shall cooperate with the Court and shall not seek unnecessary adjournments.
- iv. Both parties are allowed to file their memos of instructions.
- v. Pending IAs, if any, shall stand closed.

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

SMC/List No.: 1 SI No.: 4