



CNR: KAHC010490242026

NC: 2026:KHC:39210
WP No. 22477 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 22477 OF 2026 (GM-CPC)

BETWEEN:

M/S. MULTILINK
A PARTNERSHIP FIRM
HAVING OFFICE AT
NO.309, HEBBAL INDUSTRIAL AREA
MYSURU-570 016

ALSO HAVING ITS REGISTERED
OFFICE AT NO.497, IV PHASE
PEENYA INDUSTRIAL AREA
PEENYA, BENGALURU-560 058

REPRESENTED BY ITS PARTNER
MR. H.G. VASUKI
S/O MR. LATE H.V. GOPAL
AGED ABOUT 70 YEARS
RESIDING AT NO.604
III STAGE, I BLOCK
BASAVESWARANAGAR
BENGALURU-560 079

...PETITIONER

(BY SRI. PRAVEEN H.P, ADVOCATE)

AND:

1. FUJI UMBRELLA EMPLOYEES UNION
REPRESENTED BY ITS PRESIDENT
MEDARAKERI, NANJUMALIGE
MYSURU
KARNATAKA-570 004



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2. M/S FUJI UMBRELLA PRIVATE LIMITED
(M/S FUJEE UMBRELLA PRIVATE LIMITED)
REGISTERED OFFICE AT NO.309
HEBBAL INDUSTRIAL AREA
SY NO.106 AND 107, HEBBAL VILLAGE
KASABA HOBLI, MYSORE
PIN CODE:570 016

...RESPONDENTS

(BY SMT. MAITREYI KRISHNAN, ADVOCATE FOR C/R1)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SETTING ASIDE THE IMPUGNED ORDER DATED 23.01.2026 PASSED BY THE V ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, MYSURU IN EXECUTION PETITION NO.501/2014 BY DISMISSING THE IA NO.5 FILED UNDER ORDER I RULE 10(2) OF CPC BY THE RESPONDENT NO 1, PRODUCED AT ANNEXURE-A, IN EXERCISE OF THE SUPERVISORY JURISDICTION OF THIS HON'BLE COURT UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, 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



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ORAL ORDER

Aggrieved by the order dated 23.01.2026 in I.A.No.5 in Execution Petition No.501/2014 by the V Additional Senior Civil Judge and JMFC, Mysuru, the petitioner/impleading applicant is before this Court.

2. The respondent No.1 herein, who is the decree holder, filed I.A.No.5 under Order I Rule 10(2) of the CPC and Section 18 of the Industrial Disputes Act, seeking to implead the proposed Judgment Debtor in order to execute the award passed by the Labour Court on 15.05.2009. It is the case of the proposed Judgment Debtor that it is the purchaser of the company through a registered sale deed dated 28.11.2003, during the pendency of the dispute before the Labour Court. However, the Judgment Debtor has not informed this fact to the Labour Court. Thereafter, the award was passed on 15.05.2009. The petitioner herein purchased the property in the year 2003. The trial Court, by the impugned order, allowed the application.

3. While allowing the application, the trial Court observed that, in the light of the averments in the affidavit, it is



found just and necessary to allow the application in the interest of justice and equity. Whether the opponents are liable to perform the decree or not has to be decided at a later stage, and hence, at this stage, the opponents are proper and necessary parties to the proceedings, and accordingly, the application was allowed.

4. Learned counsel appearing for the petitioner submits that the property was purchased in the year 2003. The original owner of the property has mortgaged it to the Federal Bank, and the entire consideration of Rs.1,10,00,000/- was paid to the bank. It is the case that he had purchased only the land and thereafter established his own business. He has not continued the earlier business. Hence, he cannot be termed as successor of the employer. It is submitted that the petitioner is not a proper and necessary party to these proceedings, is not a judgment debtor, and that the amount cannot be recovered from him. It is submitted that the trial Court has failed to consider these aspects and simply allowed the application filed under Order I Rule 10 of CPC.



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5. Learned counsel appearing for respondent No. 1/decree holder submits that the trial Court has rightly considered the scope of the application, conducted the inquiry required under Order I Rule 10 of CPC, and rightly allowed the application. The trial Court has also observed that whether the opponents are liable to perform the decree has to be decided at a later stage. Learned counsel submits that all these issues have to be decided by the trial Court. She has relied on the judgment of the Division Bench of this Court in the case of ***M.N.Cariappa, dead by his LRs Vs Rosamma and Others***¹, where paragraph Nos.17 to 21 reads thus:

"17. Some of those tests can be applied to in the instant case:

(1) Did the purchaser purchased the whole of the business?

(2) Is the business purchased carried on at the same place as before?

(3) Is the business carried on without a substantial break in time?

(4) Is the business carried on by the purchaser the same or similar to the business in the hands of the vendor?

The answers to these questions are all in the affirmative in the instant case. The appellant had purchased the whole of the business comprising of

¹ ILR 2013 KAR 1861



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the coffee estate. The business that has been purchased has been in the same place as before. There is no substantial break in time in the business being carried on. The business carried on by the purchaser is the same or similar to the business in the hands of the vendors. As opined by the Hon'ble Supreme Court, it is not necessary that the business purchased must be a going concern at the time of the sale transaction. Even if there is a substantial break in time in the business and there is no continuity of business ²³ for some time that would not affect the liability of the successor in interest. It is also not necessary that the goodwill of the business should have been purchased.

18. The Supreme Court has further emphasized that if industrial adjudication were to insist that the purchaser must purchase the whole of the property of the vendor concerned before he can be regarded as the successor-in-interest, it is quite likely that just an insignificant portion of the property may not be the subject matter of the conveyance and it may be urged that the exclusion of the said fraction precludes industrial adjudication from treating the purchaser as a successor-in-interest. Such a plea however cannot be entertained for the simple reason that in deciding this question, industrial adjudication will look at the substance of the transaction and not merely the form of the transfer. Therefore, the appellant herein was rightly impleaded as a successor-in-interest in the instant case as the dispute related to the establishment which had been purchased by ²⁴ the appellant just prior to the reference of the dispute for adjudication.

19. However, learned counsel for the appellant has placed strong reliance on the decision of learned Single Judge of this Court in P.S.I.DATA SYSTEMS LTD., Vs. PRESIDING OFFICER [ILR 1992 Kar. 2163], in order to emphasize that the estate was not purchased as a going concern. In the said decision, it has been opined that a person can be called a successor-in-interest only if the prior business is taken over as a going concern with all its assets and liabilities. But where the entire business is not taken over, only the land and building are

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purchased for starting altogether a new business and the plant and machinery is left to the vendor's disposal, the purchaser cannot be considered to be a successor or assignee of the old business.

20. The said dictum in our view runs counter to the observations of the Apex Court in ANAKAPALLA CO-OP AGRICULTURAL AND INDUSTRIAL SOCIETY. It is not necessary that the business must be purchased as a going concern at the time of the sale transaction. Some parts of the existing business could be purchased for starting altogether a new business by purchase of some other parts or properties. Even then, the transferee would become the successor-in-interest within the meaning of Section 18 of the Act. Even if an altogether new business is started, out of the assets purchased from the vendor of the old establishment even then, the transferee would have to be considered to be a successor-in-interest for the purpose of Section 18 of the Act, insofar as it would not derogate from the fact that the industrial dispute related to the establishment which was transferred or assigned by the original owner or employer. Thus the transfer of the business as a going concern is not a sine qua non for considering the transferee as a successor-in-interest in respect of the establishment to which the dispute relates. Therefore, we over-rule the ratio of the decision of learned Single Judge in PSI DATA SYSTEMS LIMITED.

21. Having regard to the fact that in the instant case, the appellant had purchased the estate during the pendency of the proceedings, what has been purchased is an establishment of coffee estate. Even if the coffee estate was not purchased as a going concern, coffee estate was purchased would per se imply that the appellant is the successors-in-interest in respect of the establishment to which the dispute related and his legal representatives are bound by the award. The learned Single Judge was, therefore, right in holding that P.S.I DATA SYSTEMS LIMITED has no application to the facts of the present case."



6. Relying on this, learned counsel submits that the petitioner is a necessary party and the trial Court has rightly allowed the application and no interference is called for in the order passed by the trial Court.

7. Having heard the learned counsel on either side, perused the entire material on record. According to the petitioner, he cannot be termed as a successor. He has not taken over the business. He has only purchased the premises, paying the entire amount to the Bank, which the original employer had mortgaged to the Federal Bank, in the year 2003. According to the learned counsel for the decree holder, he is continuing a business in the said premises and as per the law laid down by the Division Bench of this Court in ***M.N.Cariappa's*** case referred to supra, he is a successor in interest and Section 18 of the Industrial Disputes Act is bound by the award.

8. In the light of the respective contentions raised by both the parties, unless and until a detailed inquiry is conducted by the trial Court regarding whether the petitioner can be termed as successor as per Section 18 of the Industrial



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Disputes Act and as per the judgment of the Division Bench of this Court in ***M.N.Cariappa***'s case referred supra, as discussed in paragraph Nos.17 to 21 of the order, whether the petitioner would fall within any of those categories has to be decided by the Court. In the considered opinion of this Court at this stage, unless and until the petitioner is impleaded and evidence is placed on record, the Court cannot go into all those aspects. Further, the Court has not given any finding on the liability of the petitioner. In the light of the above discussion, this Court does not find any reason to interfere with the impugned order. Hence, this Court is passing the following order:

ORDER

- i. The order impugned does not warrant any interference of this Court.
- ii. The trial Court shall conduct an inquiry, giving a reasonable opportunity to both the petitioner and the respondents to substantiate their respective cases and shall conclude this inquiry within a period of 6 months from the date of receipt of the copy of this order.



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- iii. Both the parties shall co-operate and shall not seek unnecessary adjournments.
- iv. As this Court has left it open to decide the liability of the petitioner, any observations contrary to that will not bind the petitioner.
- v. Accordingly, the writ petition is ***disposed of***.
- vi. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 70