



CNR: KAHC010490302022

NC: 2026:KHC:41907
W.P. No.21393/2022

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.21393/2022 (GM-CPC)

BETWEEN:

SRI. SURESH .G
S/O GANGADHAR
AGED ABOUT 42 YEARS
R/AT NO.45/36-2
10TH CROSS, BHOVIPALYA
MAHALAKSHMIPURAM
BANGALORE-560086.

...PETITIONER

(BY SRI. KRISHNA MURTHY N, ADV.,)

AND:

1. SRI. GANGADHAR
S/O LATE MARI RUDRAIAH
AGED ABOUT 66 YEARS.
2. SRI. SHANKAR .G
S/O GANGADHAR
AGED ABOUT 40 YEARS.
3. SMT. SARASWATHI
D/O GANGADHAR
AGED ABOUT 44 YEARS.

ALL ARE R/AT NO.45/36-2
10TH CROSS, BHOVIPALYA
MAHALAKSHMIPURAM
BANGALORE-560086.

...RESPONDENTS

Digitally signed
by RUPA V
Location:
HIGH COURT
OF
KARNATAKA



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(BY SRI. LOKESHA A.C. ADV.,
SRI. SHRIDHARA K, ADV., FOR R1 TO R3)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALLING FOR RECORDS IN OS.NO.3964/2019 PENDING ON THE FILE OF THE XLIV ADDL. CITY CIVIL AND SESSIONS JUDGE, AT BANGALORE, CCH NO.27. SET ASIDE THE ORDER PASSED IN OS.NO.3964/2019 DATED 29.09.2022 PENDING ON THE FILE OF THE XLIV ADDL. CITY CIVIL AND SESSIONS JUDGE, AT BANGALORE, CCH NO.27 ON IA NO.6, 7 AND 8 AS PER ANNEXURE-A PASSED BY THE XLIV ADDL. CITY CIVIL AND SESSIONS JUDGE AT BANGALORE & 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 challenging the order dated 29.09.2022 passed on IA.Nos.6 to 8 in OS.No.3964/2019 by the XLIV Additional City Civil and Sessions Judge, Bengaluru, CCH-27, (for short 'the trial Court').

2. Heard Sri.Krishna Murthy N., learned counsel appearing for the petitioner, Sri.Lokesha A.C., learned counsel for Sri.Shridhara K., learned counsel for the respondents and meticulously perused the material available on record.



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3. The petitioner and another filed OS.No.3964/2019 seeking the relief of partition and separate possession, as well as a declaration that the gift deed dated 02.04.2018 is not binding on the plaintiffs, along with other consequential reliefs. In the said suit, the respondents filed their detailed written statements. Plaintiff No.1 examined himself as PW1 and thereafter filed three applications, i.e. IA.Nos.6 and 7 under Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') seeking recall of the order dated 27.06.2022, reopening of the case and permission to lead further evidence, and IA.No.8 under Order XVI Rule 1-A read with Section 151 of the CPC, seeking permission to lead further evidence by examining Sri.R.D.Jagadish, proprietor of R.D. Construction by recalling the order dated 27.06.2022, whereby the evidence of the plaintiff had been closed. The trial Court, under the impugned order dismissed all the three applications by recording the reasons that there was



no pleading to support the applications and that Ex.P15 appeared to be a created document.

4. It is required to be noticed that plaintiff No.1 filed the said applications immediately after the conclusion of his examination-in-chief and cross-examination, when the matter was posted for the defendants' evidence and even before defendants started their evidence. It is further to be noticed that plaintiff No.1 intends to examine Sri.R.D.Jagadish, who claims to be the proprietor of R.D. Construction, to substantiate his contention pleaded in paragraph No.12 of the plaint that he had put up construction over the suit schedule property. The said assertion can be found in paragraph No.12 of the plaint that he has put up the construction. However, the said pleading is silent as to which contractor has put up the construction. It is also required to be noticed that plaintiff No.1 has already produced Ex.P15, the work order issued



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to the said proprietor, which was marked during his examination-in-chief.

5. Taking note of the same, I am of the view that the trial Court has committed a grave error in recording the finding that no foundation was laid for examining the said witness and further the trial Court has jumped to the conclusion that Ex.P15 appeared to be a forged document. The aforesaid finding at the stage of examining the witness is improper. Accordingly, I proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***.
- ii. The impugned order dated 29.09.2022 passed in OS.No.3964/2019 by the XLIV Additional City Civil and Sessions Judge, Bengaluru, CCH-27, is hereby set aside. Consequently, IA.Nos.6 to 8 filed by plaintiff No.1 are allowed.



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- iii. The plaintiff No.1 shall keep the said witness present before the Court on the next date of hearing or the date fixed by the trial Court and examine as witness.
- No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 36