



CNR: KAHC010492482022

NC: 2026:KHC:46250
W.P. No.21392/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 27TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.21392/2022 (GM-CPC)

BETWEEN:

1. SRI. SANDEEP KUMAR C.D.
S/O DAKSHINAMURHTY
AGED ABOUT 28 YEARS.
2. KUMARI SAHANA C.D.
D/O DAKSHINAMURTHY
AGED ABOUT 26 YEARS.

BOTH ARE R/AT.
CHINNENAHALLI VILLAGE
K. SHETTI HOBLI
SRIRANGAPATNA TALUK
MANDYA DIST - 571438.

...PETITIONERS

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. R.P. SOMASHEKHARAI AH, ADV.,)

AND:

1. SRI. DAKSHINAMURTHY
S/O LATE KALAI AH
AGED ABOUT 59 YEARS
AGRICULTURIST.
2. SRI. CHANNAPPA
S/O LATE KALAI AH
AGED ABOUT 68 YEARS
AGRICULTURIST.



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3. PREMA
W/O LATE SOMASHEKARA
AGED ABOUT 61 YEARS
HOUSE WIFE.

R1 TO R3 ARE R/OF
CHINNENAHALLI VILLAGE
K. SHETTIHALLI HOBLI
SRIRANGAPATNA TALUK
MANDYA DISTRICT-571438.
4. NEELAMBIKA
W/O PRABHUDEVA
AGED ABOUT 41 YEARS
HOUSEWIFE
R/O. BEVUKAL VILLAGE
DUDDA HOBLI, MANDYA TALUK
MANDYA DISTRICT-571438.
5. SATHISHA
S/O LATE SOMASHEKHARA
AGED ABOUT 39 YEARS
AGRICULTURIST.
6. HARIPRASAD
S/O LATE SOMASHEKHARA
AGED ABOUT 37 YEARS
AGRICULTURIST.

BOTH R5 & R6 ARE
R/O. CHINNENAHALLI VILLAGE
K. SHETTIHALLI HOBLI
SRIRANGAPATNA TALUK
MANDYA DIST - 571438.
7. SADASHIVAIAH
S/O LATE KALAI AH
AGED ABOUT 62 YEARS
AGRICULTURIST
R/O. HOUSE NO.29, 7TH CROSS



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BANNUR ROAD, KRISHNA NAGARA
MYSURU – 571602.

8. SHIVAKUMARA
S/O LATE KALAI AH
AGED ABOUT 65 YEARS
AGRICULTURIST
R/O. CHINNENAHALLI VILLAGE
K. SHETTIHALLI HOBLI
SRIRANGAPATNA TALUK
MANDYA DISTRICT – 571438.

...RESPONDENTS

(BY SRI. ADITYA BHAT, ADV., FOR
SRI. GANAPATHI SUBBARAYA BHAT, ADV., FOR R3 TO R8
R1 & R2 ARE SERVED)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
ORDER DTD.20.6.2022 MADE IN MA NO.5004/2021 ON THE
FILE OF THE III ADDL. DISTRICT AND SESSIONS JUDGE
MANDYA (SITTING AT SRIRANGAPATNA) UNDER ANNEXURE-G
AND THE ORDER DTD.1.10.2021 MADE ON IA NO.9 IN
O.S.NO.40/2017 ON THE FILE OF THE ADDL. SR CIVIL JUDGE
SRIRANGAPATNA ANNEXURE-F & 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



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ORAL ORDER

This writ petition is filed seeking the following reliefs:

"i. Issue writ in the nature of certiorari and quash the order dated 20.06.2022, made in M.A.No.5004/2021, on the file of the III Additional District and Sessions Judge, Mandya (sitting at Srirangapatna), under Annexure-G and the order dated 01.10.2021 made on IA.No.9 in OS.No.40/2017, on the file of the Additional Senior Civil Judge, Srirangapatna, Annexure-F, in the interest of justice and equity."

ii. Issue such other order or direction as may be deemed fit to grant in the circumstances of the case."

2. Heard Sri.R.P.Somashekharaiiah, learned counsel appearing for the petitioner, Sri.Aditya Bhat, learned counsel appearing for Sri.Ganapathi Subbaraya Bhat, learned counsel for respondent Nos.3 to 8 and meticulously perused the material available on record.

3. The petitioners filed OS.No.40/2017 seeking the relief of partition and separate possession. In the said suit, the plaintiff filed an application under Order XXXIX



Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, (for short 'CPC') seeking a temporary injunction restraining defendant Nos.1 and 3(a) to 3(d) or anybody claiming under them from interfering with the suit schedule property item No.6, alemane property (Kabbina gana), and from interfering with the possession of the plaintiff over item No.6 of the 'A' schedule property of the plaint. The said application came to be dismissed by the trial Court vide order dated 01.10.2021. Aggrieved by the said order, the plaintiffs preferred MA.No.5004/2021 before the Appellate Court. The Appellate Court reconsidered the matter on merits and dismissed the appeal vide order dated 20.06.2022.

4. It is to be noticed that the petitioners/plaintiffs are contending that by virtue of a partition deed dated 25.05.1991, item No.6 of the suit schedule property was exclusively allotted to the share of plaintiffs and that they



are seeking to continue the activity of using the same for the purpose of preparing the jaggery.

5. A perusal of the application filed under Order XXXIX Rule 1 and 2 of the CPC and the affidavit filed in support of the application indicates that the relief sought is of the year 2021. The trial Court, considering the aforesaid aspect, has recorded a finding that the plaintiffs have produced only a xerox copy of the unregistered partition deed dated 25.05.1991 and that based on such document, the Court cannot come to conclusion that item No.6 of the suit schedule properties was exclusively allotted to the plaintiffs. The trial Court, while considering the application, in paragraph No.7, observed that the alemane is being used by all the members of the family.

6. Considering the aforesaid finding and without expressing any opinion with regard to the exclusive allotment of share either in favour of the plaintiffs or in favour of the defendants, it would be appropriate to



permit both the plaintiffs and the defendants to use the alemane, whenever required, during the pendency of the suit, so that they can make use of the same for the purpose of manufacturing jaggery, since they are sugarcane growers.

7. It is made clear that this Court has not expressed any opinion on the contentions urged by both sides and the order is passed mainly on the basis of the finding recorded by the trial Court in paragraph No.7. Accordingly, I proceed to pass the following:

ORDER

- i. The writ petition is ***disposed of***.
- ii. The plaintiffs as well as the defendants are permitted to use item No.6 of the suit schedule property i.e. alemane, one after the other, as per their requirement without altering the nature of the property, during the pendency of the suit.



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iii. It is made clear that this Court has not recorded any finding with regard to the share in the said suit property.

iv. The trial Court shall dispose of the suit as expeditiously as possible, without any delay.

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

ABK
List No.: 1 Sl No.: 29