



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE JAYANT BANERJI

WRIT PETITION NO. 23588 OF 2025 (GM-CPC)

BETWEEN:

SRI.O.N.NAGARAJU,
S/O LATE NARAYANA SWAMY,
AGED ABOUT 67 YEARS,
R/AT KALLUDI VILLAGE,
KASABA HOBLI,
GOWRIBIDANUR TALUK,
CHIKKABALLAPUR DISTRICT
PIN CODE-561 208.

...PETITIONER

(BY SRI.VENKATESH.N., ADVOCATE)

AND:

1. SRI S.BABU,
S/O SRINIVASA.K,
AGED ABOUT 50 YEARS,
R/AT C/O SUMANALI STORES,
B H ROAD, GOWRIBIDANUR TOWN,
CHIKKABALLAPUR DISTRICT.
PIN CODE -561 208.

2. SMT.KOMALA G R,
D/O S BABU,
W/O SRI.BALAJI A,
AGED ABOUT 28 YEARS,
R/AT C/O SUMANALI STORES,
B H ROAD, GOWRIBIDANUR TOWN,
CHIKKABALLAPUR DISTRICT.
PIN CODE-561 208.

Digitally
signed by
KAVYA G
Location:
High Court
of Karnataka



3. SMT.YASHODHA G R,
D/O S BABU,
W/O SRI.PRASHANTH,
AGED ABOUT 27 YEARS,
R/AT C/O SUMANALI STORES,
B H ROAD, GOWRIBIDANUR TOWN,
CHIKKABALLAPUR DISTRICT.
PIN CODE-561 208.
4. SRI.SRINATH,
S/O LATE NAGARAJ R,
AGED ABOUT 45 YEARS,
R/AT NO.417, WARD NO.5,
DODDAPETE, MALUR TOWN,
KOLAR DISTRICT,
PIN CODE-563 130.
5. SRI.SRINIVASA REDDY
S/O VENKATARAMANAPPA,
AGED ABOUT 55 YEARS,
R/AT VEERANDAHALLI,
GOWRIBIDANUR TOWN,
CHIKKABALLAPUR DISTRICT,
PIN CODE-561 208.

...RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PAYING TO SET ASIDE THE ORDER DATED 15-07-2025 PASSED BY THE LEARNED ADDITIONAL CIVIL JUDGE AND J.M.F.C AT GOWRIBIDANUR PASSED IN OS NO.148/2008 ON I.A. FILED UNDER SECTION 151 OF C.P.C BY THE DEFENDANT NO. 1/PETITIONER HERCIN (ANNEXURE-K) BY ISSUING A WRIT OF CERTIORARI OR ANY OTHER ORDER/ORDERS AS THIS HON'BLE COURT DEEMS FIT TO PASS IN FAVOR OF THE PETITIONER IN THE ABOVE CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI

ORAL ORDER

This petition has been filed seeking the following relief:-

Wherefore, the petitioner humbly prays that the Hon'ble Court be pleased to SET ASIDE the order dated 15.07.2025 passed by the learned Additional Civil Judge and J.M.F.C at Gowribiradnur passed in O.S.NO.148/2008 on I.A. filed under Section 151 of C.P.C by the Defendant No.1/Petitioner herein (Annexure-K) by issuing a Writ of Certiorari or any other order/orders as this Hon'ble Court deems fit to pass in favour of the petitioner in the above circumstances of the case, in the interest of justice and equity.

2. An Original Suit No.148/2008 was filed by the plaintiffs/ respondents seeking a declaration and injunction with regard to the suit schedule immovable property. By an order dated 05.09.2019, while noticing that the amended plaint was furnished, the matter was directed to be listed for arguments on the main matter.

3. An IA was filed on 11.12.2019 seeking to recall the aforesaid order dated 05.09.2019 on the ground that an additional written statement should be permitted to be filed.

4. Objections to the said application were filed by the plaintiffs stating that after the amendment of the CPC, the



defendant No. 1 did not file any written statement and his written statement was rejected in the year 2008 itself. Therefore, the application filed by him is baseless.

5. By means of the impugned order, the trial Court noted that, on 28.07.2009 the written statement of the defendant No.1 was recorded 'as not filed' and proceedings were continued accordingly. Subsequently on 06.11.2014 the defendant No.1 filed an application under Section 151 CPC along with a written statement in two sets and by an order dated 03.01.2015, after hearing both sides, the trial Court rejected the application under Section 151 of CPC. Thereafter, on 11.07.2019, the counsel for the plaintiffs reported death of plaintiff No.1 and filed an application under Order XXII Rule 3 read with Section 151 CPC, seeking leave to bring the legal representatives of the deceased plaintiff on record. The application was allowed and the Court permitted necessary amendment to the plaint. In compliance, the amended plaint was filed on 05.09.2019 and the matter was posted for arguments on the main suit. Thereafter the aforesaid application dated 11.12.2019 was filed by the defendant No.1.



6. The trial Court noted the provisions of Order VIII Rule 9 CPC and observed that the amendment was solely confined to the cause title and did not alter the substantive averments or reliefs claimed in the plaint. Despite that, the defendant No.1 has once again approached the Court by filing another application under Section 151 CPC seeking permission to file an additional written statement.

7. The counsel for the petitioner states that once the plaint was amended, the mandate of law is to enable the defendants to file additional written statement. The learned counsel has relied upon paragraph-22 of a decision dated 27.03.2019 passed by the learned Single Judge of this Court in Writ Petition Nos. 5452-5475/2019 in support of his contention. It is stated that provisions of Section 151 CPC are wide enough to cover the case of the petitioner and the petitioner No.1 ought to have been given an opportunity to file additional written statement. However, it lends no benefit to the petitioner.

8. Learned counsel for the petitioner states that no application was filed under 151 seeking permission to file



additional written statement. It merely sought recall of the order dated 05.09.2019. Be that as it may, the Order of 05.09.2019 was passed by the Court accepting the amended plaint and fixing the matters for arguments on the suit. If it be the case of the plaintiff that no application was filed for filing an additional written statement, then there was no cause to recall the order of 05.09.2019.

9. Moreover, we notice from the impugned order that the Court has noted the procedural or formal amendment with regard to substitution of the legal representatives having been carried out in the plaint which gave no right to the defendant No.1 to file an additional written statement. Therefore, the Court was right in observing that the question of filing an additional written statement, at that stage on behalf of the defendant No.1, did not arise. There is no merit in this petition. Rather this Court finds that this is a frivolous petition filed by the petitioner. This petition is therefore dismissed with cost of ₹5,000/- (Rupees Five Thousand only) which will be deposited by the plaintiff before the trial Court within one month from today.



10. Let a copy of this order be sent by the Registrar concerned to the District Court for ensuring compliance.

11. The Registry of this Court is directed to communicate this order to the concerned trial Court within fifteen days from today so that it is kept on the record.

Sd/-
(JAYANT BANERJI)
JUDGE

KGR
List No.: 1 Sl No.: 24