



CNR: KAHC010512472026

NC: 2026:KHC:42154
WP No. 23222 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 23222 OF 2026 (GM-CPC)

BETWEEN:

1. SMT. ARUNA
W/O. LATE SRIDHARA POOJARY,
AGED ABOUT 44 YEARS,
2. SRI ASHRAY,
S/O. LATE SRIDHARA POOJARY
AGED ABOUT 21 YEARS,

BOTH ARE R/AT PUSHPA NIVAS,
NELLIKAR VILLAGE,
MOOBBIDRI TALUK,
D.K. DISTRICT -574107.

...PETITIONERS

(BY SMT. AKSHATHA DEVADIGA, ADVOCATE)

AND:

SMT. BHARATHI
W/O. KRISHNAPPA,
AGED ABOUT 49 YEARS,
R/AT KARTHIK NIVAS,
MANTRADY POST AND VILLAGE,
MOOBBIDRI TALUK-574236.

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER

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by SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA



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DATED 15.07.2026 ON I.A. NO.VII FILED UNDER ORDER 14 RULE 5 R/W SECTION 151 CPC IN O.S.NO.123/2020 ON THE FILE OF CIVIL JUDGE AND JMFC, MOODBIDRI, D.K, FILED AT ANNEXURE-A TO THE WRIT PETITION AND CONSEQUENTLY ALLOW THE AFORESAID APPLICATION.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The petitioners/defendants being aggrieved by the order dated 15.07.2026, passed on IA.No.7 in O.S.No.123/2020, by the Civil Judge and JMFC, Moodabidri, Dakshina Kannada, are before this Court.

2. The defendants have filed an application under Order XIV Rule 5 of CPC, seeking the trial Court to frame an additional issue as to ***"Whether the plaintiff proves that Late Sridhara Poojary has executed the Will dated 04.10.2018, voluntarily in favour of plaintiff when he was in sound and disposing state of mind?"***.



The trial Court by the impugned order, rejected the said application. While rejecting the application, the Court has observed that, at the present stage of cross-examination of PW-1, and at this juncture, the defendant No.1 has come up with this application praying to frame an additional issue as proposed in the application. The trial Court observed that it has already framed an issue and the burden casts upon the plaintiff to prove her ownership and possession over suit schedule property by virtue of the Will dated 04.10.2018. In such circumstances, the plaintiff has to substantiate her title and she shall also prove the execution of the Will dated 04.10.2018. In such circumstances, the question of sound and disposing state of mind of the executant of the Will has to be established by the plaintiff independently. Thereby, framing a separate issue with respect to the sound and disposing state of mind is not required in this case and accordingly, dismissed the application.

3. The learned counsel for the petitioners submits that when this application is filed, the matter was coming up for cross-examination of PW-1. By framing this additional issue, no prejudice will be caused to the plaintiff. It is submitted that the



trial Court has observed that, in issue No.1, already this issue is covered. But, the additional issue which they are raising is not covered by the first issue. Thereby, they will only be proving their right and title to the property, but it would not amount to proving the other issues that the Will was executed by Sridhar Poojary voluntarily when he was in a sound and disposing state of mind. It is submitted that the trial Court has failed to consider the grounds made out in the application.

4. Having heard the learned counsel for the petitioner and perused the material on record.

5. Already with regard to the Will, an issue is framed as to whether the plaintiff has become the absolute owner of the property. Now the issue that the petitioners wants the Court to frame an additional issue that is whether the Will is executed voluntarily by Sridhar Poojary in the sound and disposing statement of mind. Then the plaintiff has to prove the Will. Precisely these are the issues that would be decided by the trial Court and in the order impugned, the trial Court has rightly observed that, in these circumstances, framing of an additional



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issue is unwarranted. Hence, the trial Court has rightly dismissed the application.

6. This Court finds no reasons to interfere in the order impugned. Accordingly, the writ petition is ***dismissed***.

7. All pending I.As., if any, in the writ petition shall stand closed.

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

BK : List No.: 1 Sl No.: 16