



CNR: KAHC010520432019

NC: 2026:KHC:50727
WP No. 6935 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 6935 OF 2020 (GM-CPC)

BETWEEN:

SRI. S. PREM KUMAR
S/O LATE EERAPPA
AGED ABOUT 39 YEARS
MARUTHI EXTENTION
MALUR TOWN,
KOLAR DISTRICT - 563 130.

...PETITIONER

(BY SRI. C. VIJAYA KUMAR, ADVOCATE)

AND:

1. SRI. VENKATESHAPPA
S/O BEGUR MUNIVENKATAPPA
AGED ABOUT 67 YEARS
2. SRI. MUNINAGAPPA
S/O MUNIYAPPA
AGED ABOUT 53 YEARS
3. SRI CHIKKANNA
S/O VENKATAPPA
MAJOR

1 TO 3 ARE RESIDING AT
KEMPASANDRA VILLAGE
TEKAL HOBLI, MALUR TALUK

Digitally signed
by ANNA PURNA G
Location: High
Court of
Karnataka



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KOLAR DISTRICT - 563 130.

- 4. SRI. MUNIYAPPA
S/O CHIKKAHANUMANTHAPPA
DEAD BY LRS
- 4(A). SMT. NARAYANAMMA
W/O NARAYANASWAMY
D/O LATE MUNIYAPPA
AGED ABOUT 64 YEARS
RESIDENT OF MADAMANGALA VILLAGE
SULUKUNTE POST, BANGARPET TALUK.
- 4(B). SRI. B. SEENAPPA
S/O LATE MUNIYAPPA
AGED ABOUT 58 YEARS
RESIDING AT KEMPASANDRA VILLAGE
TEKAL HOBLI, MALUR TALUK,
KOLAR DISTRICT - 563 130.
- 4(C). SRI. NARAYANASWAMY
S/O LATE MUNIYAPPA
AGED ABOUT 55 YEARS
- 4(D). SRI. CHIKKAHANUMANTHAPPA
S/O LATE MUNIYAPPA
AGED ABOUT 53 YEARS

4(B) TO (D) ARE RESIDING AT
KEMPASANDRA VILLAGE
TEKAL HOBLI,
MALUR TALUK - 563 130.

- 5. SRI. KEMPANNA,



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S/O LATE MUNIYAPPA
AGED ABOUT 61 YEARS
RESIDING AT KEMPASANDRA VILLAGE
TEKAL HOBLI, MALUR TALUK
KOLAR DISTRICT - 563 130.

...RESPONDENTS

(BY SRI. SHARATH S. GOGI, ADVOCATE FOR R5;
R1, R2, R4(A) TO (D) ARE SERVED;
R3(A), R3(C) AND R3(D) ARE SERVED)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER
DATED 22.10.2019 ON I.A.NO.II IN RA NO.106/2016 ON THE
FILE OF SENIOR CIVIL JUDGE, AT MALUR COPY OF WHICH IS
PRODUCED AT ANNEXURE-F AND CONSEQUENTLY ALLOW THE
IA NO.II AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Petitioner herein was respondent No.1 before the
Appellate Court and plaintiff No.1 in O.S.No.31/2003. The suit
instituted by the petitioner and other plaintiffs came to be
decreed by the Trial Court by holding that the suit schedule
properties are joint family ancestral properties and that the
plaintiffs and defendant No.1 constitute an undivided Hindu



joint family. During the pendency of R.A.No.106/2016, the petitioner/plaintiff No.1 filed an application seeking an order of temporary injunction restraining the appellants and respondent No.5 from interfering with his peaceful possession and enjoyment of the suit properties. The petitioner also sought a direction to the appellants and respondent No.5 to pay a sum of Rs.25,000/- per month on the allegation that they were interfering with his possession and enjoyment of the properties.

2. The Appellate Court, by order dated 22.10.2019, rejected the said application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 principally on the ground that an injunction cannot ordinarily be sought by one coparcener against another in respect of joint family properties during the pendency of partition proceedings. Aggrieved by the said order, the petitioner is before this Court.

3. I have given my anxious consideration to the submissions of the learned counsel for the parties and have perused the pleadings and the material on record.



4. The Trial Court, while decreeing O.S.No.31/2003, has categorically recorded a finding that the suit schedule properties are joint family ancestral properties and that the plaintiffs and defendant No.1 constitute an undivided Hindu joint family. The said finding assumes significance while examining the petitioner's prayer for temporary injunction against defendant No.1-Kempanna, who is admittedly a member of the same joint family.

5. Once the properties are held to be joint family properties and the parties continue to hold the status of coparceners, one coparcener cannot ordinarily seek an injunction against another coparcener so as to exclude the latter from joint possession and enjoyment of the joint family properties. Such a claim would have to be considered in the light of the rights flowing from the preliminary decree and the subsequent final decree proceedings. Unless the final decree proceedings are concluded and the properties are divided by metes and bounds, followed by delivery of exclusive possession in terms of the final decree, the character of the property as



joint family property and the corresponding rights of the coparceners cannot be ignored.

6. In the present case, the petitioner seeks an order of injunction against defendant No.1-Kempanna, who is also a joint family member, during the pendency of the regular appeal. The mere fact that the petitioner has the benefit of a preliminary decree does not, by itself, confer upon him an exclusive right of possession over any specific portion of the joint family properties until the final decree proceedings are brought to their logical conclusion. The Appellate Court has taken note of this material aspect while considering I.A.No.2 filed under Order XXXIX Rules 1 and 2 of CPC.

7. It is also relevant to note that no material is placed before this Court to demonstrate the present status of R.A.No.106/2016 or to establish that the petitioner has, pursuant to the preliminary decree, acquired exclusive possession of any identified portion of the suit properties. In the absence of such material, the prayer for injunction against a co-sharer/coparcener cannot be granted merely on the allegation of interference with possession.



8. The further prayer seeking a direction to defendant No.1 to pay a sum of Rs.25,000/- per month, being in the nature of a substantive monetary relief, could not have been entertained as a composite relief in an interlocutory application filed under Order XXXIX Rules 1 and 2 of CPC, and therefore, the Appellate Court was justified in rejecting the said prayer as well.

9. Viewed in the aforesaid background, the reasons assigned by the Appellate Court in rejecting I.A.No.2 by order dated 22.10.2019 cannot be said to suffer from any illegality, perversity or material irregularity warranting interference in exercise of the supervisory jurisdiction of this Court.

The writ petition, being devoid of merit, is accordingly ***dismissed.***

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**