



CNR: KAHC010541852019

NC: 2026:KHC:50725
WP No. 2614 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. 2614 OF 2020 (GM-CPC)

BETWEEN:

1. SMT. G.S. SUCHITHRA
W/O LATE MAHENDRA KUMAR
AGED ABOUT 37 YEARS
2. B.M. PREKSHA
D/O LATE MAHENDRA KUMAR
AGED ABOUT 11 YEARS
3. B.M. VISHNU MAHENDRA KUMAR
S/O LATE MAHENDRA KUMAR
AGED ABOUT 3 YEARS
PETITIONERS NO.2 AND 3 ARE MINORS
HENCE REPRESENTED BY THEIR
NATURAL GUARDIAN MOTHER
SMT. G.S. SUCHITHRA
(PETITIONER NO.1)

ALL ARE PERMANENT RESIDING AT
HALEBUDNURU VILLAGE, KASABA HOBALI
MANDYA TALUK AND DISTRICT - 571 404,
PRESENTLY RESIDING AT
B. GOWDAGERE VILLAGE
KASABA HOBALI, MANDYA - 571 404.

...PETITIONERS

(BY SRI. JAGADISH N, ADVOCATE)

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AND:

1. MR. P. BHYRASIDDEGOWDA
S/O LATE SIDDAPPA
AGED ABOUT 65 YEARS
R/O Halebudanuru Village
Kasaba Hobali, Mandya Taluk
Mandya District - 571 404.
2. THE EXECUTIVE ENGINEER
PWD DEPARTMENT
M.C. Road, Mandya - 571 401.
3. THE MANAGING DIRECTOR
KSRDCL, 16/J, I FLOOR
MILLERS BED AREA
DR. THIMMAIAH ROAD CROSS
Bengaluru - 560 052.
4. THE DEPUTY COMMISSIONER
Mandya, Mandya District - 571 401.
5. THE SPECIAL LAND ACQUISITION OFFICER
OFFICE OF D.C. OFFICE
Mandya - 571 401.

...RESPONDENTS

(BY SRI. MANJUNATH RAYAPPA, AGA FOR R4 AND R5;
R3 AND R4 SERVED AND UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE COMMON ORDER DATED 23.02.2018 ON I.A.NO.1 TO 3 ON THE FILE OF HONBLE 1ST ADDL. SENIOR CIVIL JUDGE AND CJM AT MANDYA IN EXECUTION NO.200/2017 MARKED AS ANNEXURE-A AND ETC.,

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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

Captioned writ petition is filed by the petitioners, who are admittedly not parties to the execution proceedings initiated for enforcement of the award passed in LAC No.14/2009. The petitioners are aggrieved by the orders passed by the Executing Court on the applications filed by them under Section 47 and Order XXI Rules 97 and 101 of the Code of Civil Procedure, 1908 (for short 'CPC'). The said applications were filed on the premise that the petitioners have instituted a comprehensive suit for partition in O.S.No.371/2017, which is pending consideration, wherein they also claim a share in the acquired property in respect of which compensation has been determined pursuant to the proceedings initiated by respondent No.1/deedee holder under Section 18(1) of the Land Acquisition Act, 1894.

2. The Executing Court, having adverted to the judgment and award passed by the Reference Court in LAC No.14/2009,

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has rejected the applications on the ground that the applications filed under Section 47 and Order XXI Rules 97 and 101 of CPC are not maintainable in an execution proceeding instituted for enforcement of an award passed in the land acquisition proceedings.

3. Heard learned counsel for the petitioners and learned counsel appearing for the respondents. Perused the impugned orders and the material on record.

4. The grievance of the petitioners essentially relates to their claim of a share in the compensation awarded in respect of the acquired property. It is not in dispute that the petitioners have already instituted a comprehensive suit for partition in O.S.No.371/2017, wherein the acquired property and the compensation determined in respect thereof are stated to be the subject matter of their claim for partition.

5. Respondent No.1 had sought a reference under Section 18(1) of the Land Acquisition Act, and the compensation in respect of the acquired property came to be enhanced by judgment and award dated 04.07.2017 passed in LAC



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No.14/2009. Respondent No.1 asserts a right to the acquired property on the basis of an alleged oral partition said to have taken place during the lifetime of the first petitioner's husband, Mahendra Kumar, and respondent No.1. The said claim, however, is directly connected with and forms part of the dispute concerning the respective rights and shares of the parties in the partition suit.

6. In the above circumstances, the petitioners, having already invoked the jurisdiction of the competent Civil Court by instituting a comprehensive suit for partition, are required to seek appropriate reliefs in the said proceedings. The question as to whether the petitioners have any right, title or share in the acquired property and consequently in the compensation payable in respect thereof is a matter which requires adjudication in the partition suit. Such an adjudication cannot, in the facts and circumstances of the present case, be undertaken in the execution proceedings instituted for enforcement of the award passed in LAC No.14/2009.

7. The petitioners cannot, therefore, seek to have their substantive rights adjudicated in the execution proceedings by



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resorting to applications under Section 47 and Order XXI Rules 97 and 101 of CPC, particularly when the very subject matter of their claim is already pending adjudication in O.S.No.371/2017. Their rights, if any, in the compensation amount can be appropriately worked out either in proceedings contemplated under Section 30 of the Land Acquisition Act, 1894, where applicable, or in the pending comprehensive partition suit.

8. In that view of the matter, this Court finds no error in the approach adopted by the Executing Court in rejecting the applications filed by the petitioners. The Executing Court was justified in declining to adjudicate upon the petitioners' substantive claim to the acquired property and the compensation payable in respect thereof in the course of execution proceedings.

9. Since the petitioners have already instituted a comprehensive partition suit in O.S.No.371/2017, no interference with the impugned orders is warranted. The writ petition is accordingly ***dismissed***.

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10. It is, however, made clear that dismissal of the present writ petition shall not come in the way of the petitioners in seeking appropriate interim or other consequential reliefs before the competent Civil Court in O.S.No.371/2017, in accordance with law. The competent Civil Court shall consider any such application on its own merits and in accordance with law.

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**(SACHIN SHANKAR MAGADUM)
JUDGE**

HDK
List No.: 1 SI No.: 17