



CNR: KAHC010582182026

NC: 2026:KHC:50525
WP No. 26180 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.26180 OF 2026 (GM-CPC)

BETWEEN:

SRI. HONNAIH
SINCE DIED BY HIS LR'S

1. SMT. HEMAVATHI,
W/O LATE HONNAIAH,
AGED ABOUT 46 YEARS,
2. KUMARA
S/O LATE HONNAIAH,
AGED ABOUT 28 YEARS,
3. PRASANNA
S/O LATE HONNAIAH,
AGED ABOUT 22 YEARS,
4. YASHAODHA
D/O LATE HONNAIAH,
AGED ABOUT 24 YEARS,
5. ASHA
D/O LATE HONNAIAH,
AGED ABOUT 21 YEARS,

ALL ARE RESIDING AT
GENDEHALLI VILLAGE,
KASABA HOBLI, BELUR TALUK-573 115
HASSAN DISTRICT.

...PETITIONERS

(BY SRI. JWALA KUMAR, ADVOCATE)

AND:

SRI. SHESHAHIAH

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SURAJ GOVINDA RAJ
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SINCE DIED BY HIS LR'S

1. SMT. JYOTHI,
W/O LATE SHESHAIAH,
AGED ABOUT 56 YEARS,
2. SMT. DEEPIKA
D/O LATE SHESHAIAH,
AGED ABOUT 31 YEARS,
3. G.K. SOME Gowda
S/O G.S. KENCHE Gowda
AGED ABOUT 36 YEARS,

ALL ARE RESIDING AT
GENDEHALLI VILLAGE, KASABA HOBLI,
BELUR TALUK-573 115
HASSAN DISTRICT.

...RESPONDENTS

(BY SRI. D.G. CHINNAPPA GOWDA, ADVOCATE FOR R.3.)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH/SET ASIDE THE ORDER PASSED ON I.A.NO.13 DATED 03.08.2026 AND PASSED IN O.S.NO.119/2011 BY THE COURT OF CIVIL JUDGE AND JMFC, BELUR, VIDE ANNEXURE-A, ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioners are before this Court seeking for the following reliefs:

- i. Issue a writ of certiorari or any other writ or order to quash/set aside the order passed on I A No.13 dated 03.08.2026 and passed in OS No.119/2011 by the Court of Civil Judge & JMFC, Belur, vide ANNEXURE-A*

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- ii. *Allow IA No.13 and consequently permit the petitioners to amend the plaint and prayer column as sought in the application*
- iii. *Grant such other or further relief deems fit to grant **in the** in the circumstances of the case in the interest of justice.*

2. What has been challenged is the dismissal of an application filed under Order VI Rule 17 of the Code of Civil Procedure. The suit initially as filed was for specific performance of contract of an agreement of sale dated 15.10.2008 directing the defendants to execute the registered sale deed by receiving the balance sale consideration by complying with the terms incorporated in the agreement and hand over possession of the scheduled property to the plaintiff.
3. The application under Order VI Rule 17 came to be filed when the matter was posted for final arguments for inclusion of the following phrase after the relief seeking for possession namely, "if the court comes to the conclusion that the plaintiff is not in possession of the scheduled property alternatively" as also for amendment in the body of the plaint as, "as agreed the defendant no.1 has handed over possession of the scheduled property to the plaintiff on the date of agreement itself". The suit being of the year 2011, the above application had been filed on 16.07.2026



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when the matter was posted for final arguments. The said application was rejected by the trial Court firstly on the ground that it has been filed after lapse of nearly 16 years and secondly on the ground that there is a contradiction in the pleadings by way of the amendment.

4. Having perused the plaint, amendment application as also the impugned order and having heard the learned counsel for the petitioners, it is clear that the plaintiff had approached the court contending that the plaintiff was not in possession. The parties went to trial on that basis. After trial has been concluded, the petitioners now want to include a phrase in the body of the plaint to contend that the possession was handed over as on the date of the agreement itself and also for a suitable amendment in the prayer. This Court is of the considered opinion that such an inclusion would change the character of the suit inasmuch as the suit being one for possession would be changed to virtually a holding by the Court that the plaintiff is already in possession while seeking for specific performance. Such a change in the pleadings has rightly been rejected by the trial Court, more so by taking into consideration that the application had

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been filed at the stage of final arguments. No grounds being made out, Writ petition stands ***dismissed.***

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(SURAJ GOVINDARAJ)
JUDGE

PRS
List No.: 4 Sl No.: 8