



CNR: KAHC010591672022

NC: 2026:KHC:44351
W.P. No.25365/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 18TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.25365/2022 (GM-CPC)

BETWEEN:

SRI. RADHAKRISHNAN P.V.
AGED 61 YEARS
S/O SRI. K.P. NARAYANA NAMBIAR
R/O NO.40, CHAITHANYA, CHURCH ROAD
D B SANDRA, BANGALORE
CURRENTLY R/AT AUSTRALIA
REP BY HIS GPA HOLDER, SRI. BIJU P.V.

...PETITIONER

(BY SRI. ALWYN SEBASTIAN, ADV.,)

AND:

1. SRI. T. HEMCHANDRA KABADI
AGED ABOUT 60 YEARS
S/O TULASINATH
R/O NO 503, BUILDING NO 10
SHANTHI PARK APARTMENTS
9TH BLOCK, JAYANAGAR
BANGALORE 560011.

2. SMT. R. VANAIAKSHI
AGED MAJOR
W/O N.R. RAMESH
R/O NO.1389, 3RD B ROAD
E BLOCK, 2ND STAGE
RAJAJINAGAR, BANGALORE 560010.

...RESPONDENTS

(BY SRI. NAGARAJ HEGDE, ADV., FOR
SRI. BHAT ARUN CHIDAMBAR, ADV., FOR C/R1
R2 SERVICE OF NOTICE IS H/S V/C/O DTD:14.08.2026)

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DTD 04.07.2022 IA NO.6/2020, ANNEXURE-C PASSED IN EXECUTION PETITION NO.190/2010 BY THE HON'BLE XI ADDL. CITY CIVIL AND SESSIONS JUDGE AND CONSEQUENTLY QUASH THE ORDER DTD 07.12.2022 IA NO.9/2022 ANNEXURE-D PASSED IN EXECUTION PETITION NO.190/2010 BY THE HON'BLE XI ADDL. CITY CIVIL AND SESSIONS JUDGE & ETC.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated 04.07.2022 passed on I.A.No.6/2020 and order dated 07.12.2022 passed on I.A.No.9/2022 in Ex.P.No.190/2010 by the XI Additional City Civil and Sessions Judge, Bengaluru (for short, 'the Executing Court').

2. Heard Sri.Alwyn Sebastian, learned counsel for the petitioner and Sri.Nagaraj Hegde, learned counsel for



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Sri.Bhat Arun Chidambaram, learned counsel for the respondents and perused the material available on record.

3. The respondent No.1-plaintiff filed O.S.No.4548/2004 against the respondent No.2-defendant seeking the judgment and decree of specific performance of agreement of sale dated 19.09.2001 stated to have been executed by the defendant in favour of the plaintiff. The suit came to be decreed vide judgment dated 22.07.2008 by directing the plaintiff to execute the registered sale deed in favour of the defendant in respect of the suit schedule property by receiving the balance sale consideration within 3 months from the date of decree, to put the plaintiff in actual possession of the suit schedule property and to handover the title deeds and that, in case the defendant failed to execute the sale deed as directed, the plaintiff was at liberty to get the sale deed executed through the Court.



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4. It is to be noticed that in the said suit, the defendant had entered appearance, filed a written statement, however, did not adduce the evidence. The plaintiff filed Ex.P.No.190/2010 seeking prayer to appoint a Court Commissioner to execute the sale deed. In the said execution proceedings, the sale deed came to be executed on 30.03.2011 through the process of the Court. It is further to be noticed that the respondent No.1-decree holder had filed I.A.No.6 to direct the respondent No.2-judgment debtor to vacate and handover the possession of the property referred in the decree by demolishing the illegal construction. The Executing Court, vide order dated 04.07.2022 issued a delivery warrant in favour of the decree holder directing the judgment debtor or anybody claiming through her to vacate and handover the vacant possession of the property by demolishing the illegal construction put up in the decretal property. It is to be noticed that the decree holder had filed another application which is numbered as I.A.No.9 seeking to re-



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issue the delivery warrant by breaking open the lock and to provide police aid. The said application was allowed by re-issuing the delivery warrant and police assistance was also provided vide order dated 07.12.2022.

5. The petitioner has filed the present writ petition challenging the orders dated 04.07.2022 and 07.12.2022 passed on I.A.Nos.6 and 9 by the Executing Court. The contentions and the grounds urged in the petition indicate that the respondent No.2 being the owner of the property had sold the suit schedule property in favour of one Smt.Mithlush Jain on 10.12.2001 and inturn, the said Smt.Mithlush Jain had sold the suit schedule property vide registered sale deed dated 02.01.2006 in favour of the petitioner. Hence, the petitioner being the owner of the property was not arrayed as a party either in the suit or in the execution proceedings. It is to be noticed that the respondent No.1 filed a suit in O.S.No.4548/2004 seeking to enforce the agreement of sale dated 19.09.2001 by



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filing the said suit on 29.06.2004 and it is the contention of the petitioner that on the date of institution of the suit, the respondent No.2 was not the owner of the property as she had already sold the property in favour of Smt.Mithlush Jain on 10.12.2001 itself and later, during the pendency of the said suit, said Smt.Mithlush Jain sold the suit schedule property in favour of the petitioner on 02.01.2006. It is to be noticed that the petitioner is claiming to be the objector to the execution proceedings on the ground that he is the title holder of the property as on this day and is in possession of the same. In my considered view, the contention of the petitioner raised in the writ petition is required to be gone into by the Executing Court on merits.

6. The learned counsel for the respondent though contented that the execution of the sale deed in favour of Smt.Mithlush Jain by the respondent No.2 is fraudulent as it was based on the GPA stated to have been executed, be



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that as it may, I am of the considered view that the rival contentions with regard to the title and correctness of the instruments in question, cannot be gone into in the present petition. Hence, it would be appropriate to permit the petitioner to file an application/objection under Order XXI Rule 97 of the Code of Civil Procedure, 1908, objecting the execution proceedings and also to initiate appropriate proceedings in accordance with law. If such objection/application is filed by the petitioner, the Executing Court shall consider the same in accordance with law after conducting due enquiry and shall pass appropriate orders. It is to be noticed that till the petitioner's objection to the execution proceedings is considered, no precipitative steps shall be taken with regard to the suit schedule property by the parties or by the Executing Court by passing orders.

7. Hence, I proceed to pass the following:



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ORDER

- (i) The writ petition is allowed.
- (ii) The impugned orders dated 04.07.2022 and 07.12.2022 passed on I.A.Nos.6 and 9, respectively in O.S.No.4548/2004 by the XI Additional City Civil and Sessions Judge, Bengaluru, are set aside.
- (iii) The petitioner is permitted to file the application/objection in the execution proceedings in accordance with law within a period of 6 weeks from the date of receipt of certified copy of the order and if such application/objection is filed, the Executing Court shall consider the same in accordance with law and till the application/objection of the petitioner is considered and an order is passed, neither the Executing Court shall pass any order with regard



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to the suit schedule property nor the respondents
shall take any precipitative action.

No order as to costs.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

RV
List No.: 1 SI No.: 35