



CNR: KAHC010681432025

NC: 2026:KHC:47105  
CRP No. 772 of 2025

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 31<sup>ST</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**CIVIL REVISION PETITION NO. 772 OF 2025 (IO)**

**BETWEEN:**

ASHA B.M.,  
W/O C.YOGESH KUKMAR  
AGED ABOUT 40 YEARS  
R/A SUBHIKSHA NO.1,  
KAVERI ROAD, SUBRAMANYA NAGAR  
BEHIND RUCHI PRINCE HOTEL  
HINKAL  
MYSURU -570 017

...PETITIONER

(BY SRI. PREMAKUMAR A.L., ADVOCATE)

**AND:**

SMT H.N.BHAGYA  
W/O M.K.NARAYANA SWAMY  
AGE ABOUT 57 YEARS  
R/A NO.22, 7<sup>TH</sup> CROSS  
2<sup>ND</sup> MAIN, MAHADESHWARA EXTENSION  
VIJAYANAGAR 2<sup>ND</sup> STAGE  
MYSURU -570 017

...RESPONDENT

(BY SRI. B.S.NAGARAJ, ADVOCATE)

THIS CRP FILED UNDER SECTION 115 OF CPC, AGAINST THE ORDER DATED 02.09.2025 PASSED ON I.A NO.III IN O.S.NO.2006/2023 ON THE FILE OF THE IX ADDITIONAL CIVIL JUDGE AND JMFC, MYSURU, PARTLY ALLOWING THE I.A.NO.III FILED UNDER ORDER 23 RULE 1 R/W SEC.151 OF CPC THE CASE IS DISPOSED OF AS WITHDRAWN.



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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

**ORAL ORDER**

Aggrieved by the order dated 02.09.2025, passed on I.A.No.3 under Order 23 Rule 1 read with Section 151 CPC in O.S.No.2006/2023 by the IX Addl. Civil Judge and JMFC, Mysuru, wherein the trial Court has partly allowed the application seeking permission to withdraw the suit on costs of Rs.2,000/-, the petitioner is before this Court.

2. Learned counsel appearing for the petitioner submits that, due to the pendency of the suit, certain constructions have been completed, and the petitioner now has to seek declaration and recovery of possession. In those circumstances, the petitioner has filed the present application seeking to withdraw the suit with the same cause of action. The trial court failed to consider the same and has only partly allowed and that would not serve the purpose of the petitioner. Learned counsel appearing for the petitioner submits that, if this order is set aside, he would pursue other remedies and file



an appropriate application for amendment of the pleadings with the same cause of action.

3. Learned counsel appearing for the respondent submits that the property of the petitioner and the property of the defendant are not one and the same. In fact such a finding was given by the Court in the MA. It is submitted that the trial court rightly observed that if the petitioner is permitted to withdraw the suit and liberty is given to institute the suit on the same cause of action, it would cause lot of prejudice to the defendant, and rightly passed an order partly allowing the application.

4. Having heard the learned counsel on either side, perused the material on record. The trial court has granted permission to withdraw. However, it has not granted permission to file the suit on the cause of action. In that case, the petitioner would not be in a position to maintain the other reliefs if the same permission is not granted. In those circumstances, considering the submission made by the petitioner, this Court is passing the following:



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**ORDER**

- i. The order impugned order dated 02.09.2025, passed in I.A.No.3 under Order 23 Rule 1 read with Section 151 CPC in O.S.No.2006/2023 by the IX Addl. Civil Judge and JMFC, Mysuru, is ***set aside***, recording the submission that the petitioner will not pursue I.A.No.3 under Order XXIII Rule 1 read with Section 151 CPC and he will pursue the same suit and file appropriate applications before the trial Court seeking other reliefs.
- ii. Accordingly, the Civil Revision Petition is ***disposed of***
- iii. Pending IAs., if any, shall stand closed.

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

PKN  
List No.: 1 Sl No.: 35