NC: 2024:KHC:52820
WP No. 32065 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE R. NATARAJ

WRIT PETITION NO. 32065 OF 2024 (GM-CPC)

BETWEEN:

1. SRI. P.V. SRI KRISHNA,
   S/O. LATE P.V. VITTAL,
   AGED ABOUT 48 YEARS,
   RESIDING AT NO.245A,
   3RD BLOCK, 4TH STAGE, 8TH MAIN,
   BASAVESHWARANAGAR,
   BANGALORE - 560 079.

2. SMT. SOUMYA,
   D/O SMT. P.V. CHANDRAMATHI BAI,
   WO. SRI. JANARDHAN RAO,
   RESIDING AT NO.15, 1ST FLOOR,
   6TH CROSS, VASANTHNAGAR,
   BANGALORE - 560 052.

...PETITIONERS

(BY SRI. K.S. BHEEMAIAH, ADVOCATE)

Digitally signed by SUMA
Location: HIGH COURT OF KARNATAKA

AND:

1. SRI. P.T. SHYLESH,
   S/O. LATE. P.V. TUKARAM,
   AGED ABOUT 56 YEARS,

2. SRI. P.T. KIRAN,
   S/O. LATE. P.V. TUKARAM,
   AGED ABOUT 53 YEARS,

3. SMT. H. PUNITHA,
   W/O. HARIGOVINDA RAO,
   AGED ABOUT 56 YEARS,

ALL ARE RESIDING AT NO.215
"LALITHA NIVAS", B.H. ROAD,
BIRUR KADUR TALUK, CHIKKAMAGALUR DIST.

4. SMT. P.V. ANNAPOORNA BAI,
W/O. LATE. P.V. VITTAL
AGED ABOUT 75 YEARS

5. SMT. P.V. UJWALA,
D/O. LATE. P.V. VITTAL,
AGED ABOUT 46 YEARS,

6. SMT. P.V. CHANDRAMATHI BAI,
W/O. LATE. PANDURANGA RAO DHUMAL,
AGED ABOUT 83 YEARS,

THE RESPONDENTS NO.4 TO 6 ARE THE
RESIDENT OF NO. 245A, 3RD BLOCK,
4TH STAGE, 8TH MAIN,
BASAVESHWARANAGAR,
BANGALORE - 560 079.

7. SRI. DILIP MEHTA,
S/O. FATHER'S NAME NOT KNOWN,
PARAS TRADERS, FOOD GRAIN MERCHANT,
B.H. ROAD, BIRUR - 577 116,
CHIKKAMAGALURU DIST.

…RESPONDENTS

(BY SRI. K.S. NAGARAJA RAO, ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 21.10.24, PASSED BY THE LIX ADDL. CITY CIVIL AND SESSIONS JUDGE, AT BANGALORE CITY (CCH-60) ON IA NO. 19, IN OS NO. 968/2016, WHICH IS AT ANNEXURE-N AND ETC.,

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

CORAM: HON'BLE MR JUSTICE R. NATARAJ

ORAL ORDER

Defendant Nos.2 and 6 in O.S.No.968/2016 have filed this petition challenging an order dated 21.10.2024 passed by LIX Additional City Civil and Sessions Judge at Bangalore City (CCH-60), by which an application filed by plaintiffs under Order XI Rule 14 of CPC was allowed.

2. The suit in O.S.No.968/2016 was filed for partition and separate possession of the plaintiffs' share in the suit schedule properties, which were two urban properties in Bengaluru. The plaintiffs claimed that they were the class II legal heirs of Dr. Smt. P.V.Narmada Bai, who died intestate on 12.07.2014. They contended that after the death of the said Smt. P.V.Narmada Bai, they succeeded to the suit properties. Therefore, they sought for their respective shares in the suit schedule properties.

3. The suit was contested by defendant Nos.1 to 4 and 6. Defendant Nos.2 and 6 *inter alia* contended that Smt. P.V.Narmada Bai had executed a Will dated 09.06.2014 and she appointed them as the executors of the Will. They contended that in terms of the Will, the suit 'A' property was

bequeathed in favour of defendant Nos.2 and 6, while suit 'B' property was bequeathed to plaintiff No.1. They also contended that Smt. P.V.Narmada Bai held certain deposits and actionable claims and in terms of the Will dated 09.06.2014, she authorised defendant Nos.2 and 6 to jointly take charge of the amount lying in financial institutions, pension arrears and arrears payable by the State Government and distribute the same as per her direction after appropriating the amount bequeathed to them. Therefore, they contended that the plaintiffs are not entitled to partition the suit properties, but were entitled to the suit properties as per the will of Smt. P.V.Narmada Bai. Based on these contentions, the suit was set down for trial.

4. When the suit was listed for evidence of defendants, an application was filed by plaintiffs under Order XI Rule 5 read with Section 151 of CPC to direct defendant Nos.2 and 6 to produce the details relating to the bank accounts and fixed deposits, term deposits in Canara bank, the Karnataka State Co-operative Bank Ltd., State Bank of India all situate at Basaveshwaranagar, Bangalore, Syndicate Bank at Vijayanagar, Bangalore, Pension account in State Bank of India,

Basaveshwaranagar Bangalore, Post Office Account at Basaveshwaranagar Post Office, LIC policy, Mutual funds / fixed deposits in HDFC, SBI, Kotak Mahindra, ICICI Bank, UTI and TATAs regarding its valuation and encashment. The said application was opposed by defendant Nos.2 and 6 on the ground that plaintiffs had no manner of right to claim the accounts or the properties or the benefits as those benefits were vested in defendant Nos.2 and 6 in terms of Will executed by Smt. P.V.Narmada Bai.

5. The Trial Court after considering the contentions, allowed the application in terms of the impugned order on the ground that defendant Nos.2 and 6 were appointed as the executors / nominees for collection of the amount, which was lying in the aforesaid accounts and to distribute the same as mentioned in the Will. Therefore, the Trial Court held defendant Nos.2 and 6 cannot escape from the liability to produce the documents / furnish details. Consequently, it allowed the application in terms of the impugned order.

6. Being aggrieved by the same, defendant Nos.2 and 6 are before this Court.

7. Learned counsel for defendant Nos.2 and 6 submitted that the evidence of defendant Nos.2 and 6 is not concluded and therefore, they cannot be compelled to produce the documents. He submitted that as per the Will, the moveable items / properties and actionable claim are devised in favour of defendant Nos.2 and 6 and therefore, plaintiffs cannot compel defendant Nos.2 and 6 to part with the details.

8. Per contra, learned counsel for the plaintiffs contended that even as per the Will executed by Smt. P.V.Narmada Bai, the movables were to be distributed in the following manner:

> *21. For any reason in any of my bank account or insurance or any other financial institutions or government arrears, pension arrears, it is my desire that Mr. Shree Krishna P.V and Mrs. Sowmya P, shall jointly take charge of the said amount as joint executors of this Will and distribute the same as per my direction after apportioning their portion as expressed by me. The bank or the authority shall settle such of my amounts due to me in favour of Mr. Shree Krishna P.V and Mrs. Sowmya P without compelling them to give any indemnity or guarantee. I am appointing Mr. Shree Krishna P.V and Mrs. Sowmya P, as they know most of the details.*

9. He therefore, contends that defendant Nos.2 and 6 being executors are bound to disclose the particulars of all the

movable properties, auctionable claim and they cannot contend that they cannot be compelled to produce the documents.

10. In reply, learned counsel for defendant Nos.2 and 6 contended that defendant Nos.2 and 6 shall produce these documents in the course of their evidence and that no direction can be issued to defendant Nos.2 and 6 to produce them at this stage.

11. Under Order XI Rule 14 of CPC, any party to a suit can compel the other at any stage of the suit to produce documents in his possession of power, which relates to any matter in controversy. In the case on hand, the Will relied upon defendant Nos.2 and 6 refers to certain deposits, investments made by Smt. P.V.Narmada Bai and it also discloses that defendant Nos.2 and 6 were appointed as the executors to take charge of amounts lying in those accounts as joint executors and distribute the same as per her directions. If that be so, defendant Nos.2 and 6 are bound to disclose the details as sought for by plaintiffs and cannot avoid the production of documents. Since defendant Nos.2 and 6 have now stated before the Court that all the documents and details would be produced in the course of their evidence, the

impugned order need not be given effect to compel defendant Nos.2 and 6 to produce the documents and details.

In that view of the matter, the following :

ORDER

i) The Writ Petition is hereby ***disposed off.***

ii) The Trial Court shall not give effect to the impugned order, if the defendants produce and mark all the documents as sought for by the plaintiffs in I.A.No.19, in their chief examination.

iii) It is made clear that if defendant Nos.2 and 6 fail to produce any documents as sought for by plaintiffs in I.A.No.19, the impugned order shall become enforceable and the plaintiffs would be entitled to compel the defendant Nos.2 to 6 to produce the documents and details sought for in I.A.No.19.

Sd/-
(R. NATARAJ)
JUDGE

PHM
List No.: 1 Sl No.: 93
CT: BHK