HC-KAR

NC: 2026:KHC:64541
WP No. 218 of 2021

CNR: KAHC010002432021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 218 OF 2021 (GM-CPC)

BETWEEN:

1. SMT. MUNIYAMMA
   D/O. CHIKKANNA,
   AGED ABOUT 40 YEARS,
   R/AT KURUBARAHALLI BEEDHI,
   TIRUMALE, MAGADI TALUK,
   RAMANAGARA DISTRICT - 562 159.

2. SMT. HULLURAMMA
   D/O. CHIKKANNA,
   AGED ABOUT 35 YEARS
   R/AT UNNIGERE,
   DODDALADMARA POST,
   TAVAREKERE HOBLI,
   BANGALORE SOUTH TALUK - 560 029.

...PETITIONERS

(BY SRI. SOMASHEKHARA HARVI, ADVOCATE)

AND:

1. SRI SHIVANNA
   S/O. CHIKKANNA,
   AGED ABOUT 38 YEARS

2. SRI. CHIKKANNA
   S/O. LATE. BEERAIAH,
   AGED ABOUT 79 YEARS

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3. SRI. HUCHAPPA
S/O. LATE. BEERAIAH,
AGED ABOUT 74 YEARS

4. SRI. HULLURAIAH
S/O. LATE. BEERAIAH,
AGED ABOUT 64 YEARS

ALL THE RESPONDENTS NO.1 TO 4
ARE R/AT MANGAL VILLAGE,
MADBAL HOBLI, MAGADI TALUK,
RAMANAGARA DISTRICT - 561 201.

5. SRI. GANGANARASIMHAIAH
S/O. LATE. NARASIMHAIAH,
AGED ABOUT 64 YEARS

6. SRI. GANGARAMAIAH
S/O. LATE. NARASIMHAIAH,
AGED ABOUT 64 YEARS

7. SRI. B.C. NAGARAJA
S/O. LATE. NARASIMHAIAH,
AGED ABOUT 74 YEARS

THE RESPONDENTS NO.5 TO 8 ARE
R/AT BALENAHALLI VILLAGE,
MADBAL HOBLI, MAGADI TALUK,
RAMANAGARA DISTRICT - 561 201.

…RESPONDENTS

(BY SRI. K.N. NITHISH, ADVOCATE FOR
SRI. K.V. NARASIMHAN, ADVOCATE FOR R7;
R1 - SHIVANNA - SERVED;
R2 - CIKKANNA - SERVED)

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THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER PASSED BY THE HONBLE PRL. CIVIL JUDGE (JR.DVN.) AT MAGADI, DATED 21.12.2020 IN O.S.NO.127/2010 VIDE ANNEXURE-E AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Captioned writ petition is filed by defendant Nos.5 and 6, who are the sisters of the plaintiffs, assailing the order passed by the learned Trial Judge on I.A.No.9, whereby the application seeking to set aside the order placing them *ex parte* has been rejected. The said application was filed when the suit had already been posted for judgment.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents. Perused the records.

3. The facts of the present case disclose a clear instance of abuse of the process of the Court. The plaintiffs instituted

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the suit questioning the sale deed dated 10.06.1991 executed by their grandfather in favour of the father of defendant Nos.7 to 9 and have sought cancellation of the said sale deed. The present petitioners, who are admittedly the sisters of the plaintiffs, have been arrayed as defendant Nos.5 and 6 in the suit. Their presence in the array of parties is essentially formal in nature. Significantly, the petitioners are not supporting the case of the contesting defendants, nor is there anything on record to indicate that they have independently espoused any defence in opposition to the plaintiffs' claim.

4. What is rather disturbing is the timing and circumstances in which the present application came to be filed. When the suit had reached the stage of arguments and was subsequently posted for judgment, the present petitioners came forward with an application seeking recall of the order placing them ex parte. The plaintiffs, who are none other than their brothers, are already vigorously prosecuting the suit seeking cancellation of the sale deed. In these circumstances, the manner in which the application has been brought before the Trial Court gives rise to a legitimate inference that the

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petitioners have been set up by the plaintiffs to secure an indirect reopening of the proceedings at a stage when the matter was ripe for pronouncement of judgment.

5. This Court is of the considered view that the petitioners, having been arrayed as formal defendants and having not demonstrated any independent defence or prejudice warranting their participation at this belated stage, cannot be permitted to invoke the procedural jurisdiction of the Court as a means to derail the proceedings. The circumstances surrounding the filing of the application, particularly the fact that it was filed when the suit was posted for judgment, clearly indicate that the attempt was not bona fide. The learned Trial Judge, having regard to the stage of the proceedings and the reasons assigned in support of the application, has rightly declined to recall the order placing the petitioners ex *parte*.

6. It is indeed unfortunate that, at the instance of defendant Nos.5 and 6, the plaintiffs have succeeded in stalling the proceedings and, more importantly, delaying the pronouncement of judgment in a suit instituted by them. The conduct of the petitioners cannot be viewed in isolation. The

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sequence of events, the relationship between the petitioners and the plaintiffs, their formal status in the suit and the belated attempt to come on record at the stage when the matter was posted for judgment, taken cumulatively, lend considerable support to the inference that the present application was a device employed to obstruct the timely conclusion of the suit.

7. The process of the Court cannot be permitted to be employed as an instrument to protract litigation or to frustrate the timely adjudication of disputes. Litigants who resort to such practices must be made to bear the consequences of their conduct. The present case, therefore, warrants imposition of exemplary costs, not merely to compensate the contesting defendants for the unnecessary proceedings occasioned by the petitioners, but also to discourage such attempts to abuse the process of the Court.

8. For the foregoing reasons, this Court finds no infirmity or illegality in the order passed by the learned Trial Judge warranting interference in exercise of writ jurisdiction. The petition is devoid of merit and is accordingly liable to be dismissed with exemplary costs.

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9. Accordingly, this Court passes the following:

ORDER

(i) The writ petition is ***dismissed***.

(ii) The petitioners shall jointly pay exemplary costs of Rs.25,000/- to defendant Nos.7 to 9 within a period of four weeks from the date of receipt of a copy of this order.

(iii) The learned Trial Court shall proceed with the suit in accordance with law and take steps for its expeditious disposal.

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(SACHIN SHANKAR MAGADUM)
JUDGE

HDK
List No.: 1 Sl No.: 13