HC-KAR

NC: 2026:KHC:64400
WP No. 2713 of 2026

CNR: KAHC010065712026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 2713 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. SHIVANNA
   S/O SRI PUTTAIAH
   AGED ABOUT 60 YEARS
   R/A NEAR PANCHAMUKHI GANESHA TEMPLE
   BEHIND HIGH SCHOOL
   TAVAREKERE, BENGALURU SOUTH TALUK,
   BENGALURU 562130.

...PETITIONER

(BY SRI. GIREESHA R.J., ADVOCATE)

Digitally signed by VIJAYA P
Location: High Court of Karnataka

AND:

1. SRI. T. RAMAIAH
   S/O LATE THIMMAIAH
   AGED ABOUT 68 YEARS
   R/AT NO. 1, BEL LAYOUT
   DWARAKA LAYOUT, BANGALORE 560091.

2. SRI B. S. NAGENDRA PRASAD
   S/O LATE SIDDALINGAPPA
   SINCE DEAD BY HIS LRS.,

SRI BASAVARAJU
S/O LATE B. S. NAGENDRA PRASAD
AGED ABOUT 30 YEARS
(ALREAD ON RECORD AS D2).

3. SMT. MAMATHA
S/O LATE B. S. NAGENDRA PRASAD
AGED ABOUT 28 YEARS,

R2 AND R3 ARE R/AT
NO.5/2, 9TH CROSS, MAGADI ROAD,
BENGALURU - 560 023.

4. SMT. JAYAMMA
W/O SRI SHIVARUDRAPPA
AGED ABOUT 46 YEARS
NO. 615, SRS NILAYLA, GANAPATHI STREET,
TAVARAKERE, BENGALURU SOUTH TALUK,
BENGALURU 562130.

5. SMT. INDIRA BAI,
W/O THUKARAM,
MAJOR,
R/AT NEAR PANCHAMUKHI GANESH TEMPLE,
GANAPATHI LAYOUT
TAVARAKERE, BENGALURU SOUTH TALUK,
BENGALURU - 562 130.

6. SRI MAHAVEER KUMAR
S/O SRI BABULAL
AGED ABOUT 38 YEARS
R/AT MAGADI MAIN ROAD
TAVARAKERE, BENGALURU SOUTH TALUK,
BENGALURU 562130.

7. SMT. VIMALA
W/O MANJUNATH ADIGA
AGED ABOUT 558 YEARS
R/AT NO. 232, 4TH CROSS,
2ND MAIN,
NEAR SRINIVASA KALYANA MANTAPA,
HONGASANDRA, BENGALURU 562130.

8. SMT. GANGAMMA
W/O SRI GANGAREVANNA
AGED ABOUT 50 YEARS
R/AT PANCHAMUKHI GANESHA TEMPLE
GANAPATHI LAYOUT, TAVARAKERE
BENGALURU SOUTH TALUK
BENGALURU 562130.

9. SRI KANTHARAJU
S/O SRI VEERAHANUMAIAH
AGED ABOUT 55 YEARS
R/AT S.G.P. LAYOUT, TAVARAKERE,
BENGALURU SOUTH TALUK
BENGALURU 562130.

10. SRI AHAMMED KHAN
S/O BASEER KHAN
AGED ABOUT 42 YEARS
R/AT KENGERI MAIN ROAD, TAVARAKERE,
BENGALURU SOUTH TALUK,
BENGALURU 562130.

11. SMT. NAGAMMA
S/O SRI T. RANGAPPA
AGED ABOUT 50 YEARS

R/AT PANCHAMUKHI GANESHA TEMPLE
BEHIND HIGH SCHOOL
TAVARAKERE, BENGALURU SOUTH TALUK,
BENGALURU 562130.

12. SRI T. RANGAPPA
S/O SRI THIMMAIAH
AGED ABOUT 60 YEARS
R/AT NEAR PANCHAMUKHI GENESHA TEMPLE,
BEHIND HIGH SCHOOL
TAVARAKERE, BENGALURU SOUTH TALUK,
BENGALURU 562130.

13. SRI SHANKAR
S/O SRI SEETHARAMAIAH
AGED ABOUT 60 YEARS
R/AT NEAR PANCHAMUKHI GANESHA TEMPLE
BEHIND HIGH SCHOOL
TAVARAKERE, BENGALURU SOUTH TALUK,
BENGALURU 562130.

14. SMT. MANJULA
D/O SRI NAGARAJU
AGED ABOUT 60 YEARS
R/AT KENGERI ROAD, TAVARAKERE,
BENGALURU SOUTH TALUK
BENGALURU 562130.

15. SRI PUTTARUDRAIAH
S/O SRI SIDDALINGAIAH
AGED ABOUT 58 YEARS
R/AT NO.27, 1ST B MAIN ROAD
B. KRISHNAPPA LAYOUT
VIJAYANAGARA, BENGALURU 560040.

16. SRI GANGAREVANNA
S/O REVANNA
AGED ABOUT 60 YEARS
R/AT NEAR PANCHAMUKHI GANESHA TEMPLE
SIDDALINGAPPA LAYOUT
GANAPATHI COLONY, TAVARAKERE
BENGALURU SOUTH TALUK
BENGALURU 562130.

17. SMT. LEELAMBHA
W/O SRI C.S. CHANDRASHEKAR
AGED ABOUT 30 YEARS
R/AT NO.23-A, 406, 4TH MAIN ROAD,
VRISHABHAVATHINAGARA, KAMAKSHIPALYA
BENGALURU 560079.

…RESPONDENTS

(BY SMT. GEETHA K., ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) CALL FOR RECORDS IN O.S. NO. 151/2016 ON THE FILE OF HONBLE SENIOR CIVIL JUDGE AND JMFC, MAGADI, AND PERUSE THE SAME AND B) QUASHING THE IMPUGNED ORDER DATED 13.08.2025 PASSED IN O.S. NO. 151/2016 BY THE HONBLE SENIOR CIVIL JUDGE AND JMFC, MAGADI ON I.A. NO.30 AND 31 PRODUCED AT ANNEXURE-A, AND CONSEQUENTLY ALLOW THE IAS NO.30 AND 31 FILED BY THE PETITIONER, IN THE ENDS OF JUSTICE AND EQUITY AND ETC,.

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL ORDER

The present petition calls in question the order passed on I.A.Nos.30 and 31, whereby the applications filed under Order IX Rule 7 of the CPC, seeking to set aside the order dated 30.07.2016 placing defendant No.11/petitioner *ex-parte* and to permit him to participate in the proceedings, contest the suit and file a written statement, came to be rejected.

2. Learned counsel appearing for the petitioner submits that, though the petitioner was served with summons, he failed to appear before the Court and was consequently placed *ex-parte* on 30.07.2016. It is submitted that the suit is one for declaration and possession and that the petitioner, having purchased the suit schedule property, has valuable rights which are directly affected by the outcome of the suit.

2.1 It is further submitted that, unless an opportunity is granted to the petitioner to participate in the proceedings and contest the suit, he would be put to irreparable hardship.

3. Learned counsel appearing for respondent No.1 submits that no grounds are made out for setting aside the order placing the petitioner *ex-parte*.

3.1 It is further submitted that the application was filed after a lapse of nine years, by which time the suit had substantially progressed.

4. Considered the submissions made by learned counsel for the parties and perused the material on record.

5. It is evident from the order sheet that the petitioner was placed *ex-parte* on 30.07.2016. The applications impugned herein have been filed seeking recall of the said order. However, no explanation is forthcoming as to why the petitioner failed to appear before the Court despite service of summons in the year 2016. Further, no reasons are assigned explaining the delay of nearly nine years in filing the applications seeking recall of the order placing the petitioner *ex-parte*. The affidavit filed in support of the applications merely states that the non-appearance of the petitioner before the Court was not intentional.

6. No doubt, where a party is placed *ex-parte*, an opportunity ought to be afforded to such party to contest the suit by permitting the party to put forth a proper defence. Such an opportunity would facilitate an effective and comprehensive adjudication of the dispute. However, exercise of such discretion is contingent upon the petitioner establishing bona fides. The consideration in this regard would necessarily depend upon the facts and circumstances of each case and, in particular, the nature of the explanation offered for the non-appearance and the delay.

7. In order to examine whether the petitioner has made out a case for being afforded an opportunity to contest the suit, this Court has perused the affidavit filed in support of the applications. The affidavit seeking recall of the order passed nearly nine years ago merely states that the non-appearance was not intentional. No circumstances are set out to explain the petitioner's failure to appear before the Court or the inordinate delay in approaching the Court.

8. The discretionary jurisdiction vested in the Court is required to be exercised in favour of parties who establish their

bona fides. In the context of an application seeking recall of an order placing a party *ex-parte*, such discretion can be exercised where the party demonstrates that it was prevented by sufficient and compelling reasons from appearing before the Court and approaches the Court within a reasonable period. A delay of nearly nine years in filing such an application, without any satisfactory explanation, cannot be considered a reasonable period warranting exercise of the discretionary jurisdiction of the Court.

9. In the circumstances, this Court finds no error in the order passed by the Trial Court rejecting the applications.

Accordingly, the writ petition stands ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

DDU
List No.: 1 Sl No.: 2