HC-KAR

CNR: KAHC010164212021

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. 7761 OF 2021 (GM-CPC)

BETWEEN:

SMT. KANTHA
W/O R.K. RANGASWAMY
SINCE DEAD BY LR;

R.K. RANGASWAMY
S/O KUPPASWAMY
SINCE DEAD BY LRS

1. R. ELONGOVAN
   S/O R.K. RANGASWAMY
   AGED ABOUT 65 YEARS

2. RAVICHANDRAN
   S/O R.K. RANGASWAMY
   AGED ABOUT 57 YEARS

3. TAMIZH SELVI
   D/O R.K. RANGASWAMY
   W/O RAVI
   AGED ABOUT 53 YEARS

4. RAMESH BABU
   S/O R.K. RANGASWAMY
   AGE ABOUT 49 YEARS

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5. SURESH BABU
S/O R.K. RANGASWAMY
AGED ABOUT 47 YEARS

6. THILGAVATHI
W/O LATE SATYASEELAN
AGED ABOUT 59 YEARS

7. RAJESH KUMAR
S/O LATE SATHYASEELAN
AGED ABOUT 37 YEARS

8. SENDIL NADHAN
S/O LATE SATHYASEELAN
AGE ABOUT 36 YEARS

9. SUMA PARAMESHWARI
D/O LATE SATHYASEELAN
W/O KRISHNAMURTHY
AGED ABOUT 31 YEARS

ALL ARE RESIDING AT NO. 696
20TH LOCAL QUARTERS
MARIKUPPAM, K.G.F - 563 119.

10. SMT. SHANTHAKUMARA
W/O LATE PARASURAMAN
AGE ABOUT 78 YEARS
R/AT NO. 11-6, 827
RED HILLS, KAKDI KA PUL
HYDERABAD - 500 004.

SMT. LILLY PUSHPAM
W/O C/ MUNISWAMY

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SINCE DEAD BY LR

11. SHRI. VADIVZHAGAN
S/O LATE MUNISWAMY
AGE ABOUT 56 YEARS

12. SHRI. GUNASEELAN
S/O LATE MUNISWAMY
AGED ABOUT 52 YEARS

BOTH ARE RESIDING AT
NO. 1315 /B, 1ST MAIN
2ND CROSS, RAMAIAH LINE,
VIJINAPURA, BANGALORE - 560 016.

13. ESAIVANI
D/O ALTE MUNISWAMY
AGE ABOUT 55 YEARS
W/O LATE MANOHARAN
R/AT NO. 12, RAMAKRISHNA APARTMENT
DODDABOMMASANDRA
VIDYRANYAPURAM POST
BANGALORE - 560 097.

14. KALAIVANI
D/O LATE MUNISWAMY
AGE ABOUT 52 YEARS
W/O PARIMELAZHAGAR
R/AT NO.192, GREEN CITY
PERUMALPATTU POST
VEPAMPATTU, TAMILNADU - 562 024.

15. SMT. ELDA THAVAMANI
W/O S. ARMUGAM

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AGE ABOUT 72 YEARS
R/AT NO.51, R.R. LAYOUT
2ND CROSS, 1ST MAIN,
VIJINAPURA, DOORVANI NAGAR POST
BANGALORE - 560 016.

16. SMT. SHANTHA KUMARI
W/O LATE DURAIRAJ
AGE ABOUT 65 YEARS
R/AT NO. 5, BALAGHAT
DRIVERS LINE,
CORMANDAL POST - 563 118.

…PETITIONERS

(BY SRI. GURUSWAMY K.S, ADVOCATE AND
SRI. RAMEHS M.S, ADVOCATE)

AND:

1. SMT. DHANA BACKY
W/O LATE S. SELVARAJ
AGED AVOUT 67 YEARS

2. SMT. PRASANNAKUMARI DARATHY
D/O LATE S. SELVARAJ
AGED 31 YEARS

RESPONDENTS 1 AND 2 ARE
R/AT NO. 10, BALAGHAT LANE
CORAMANDAL POST, K.G.F - 563 118.

3. SRI. KESAVAN
S/O LATE S. SUNDAR RAJ
AGED 32 YEARS

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4. SMT. SELVI
D/O LATE S. SUNDAR RAJ
AGED 35 YEARS

RESPONDENTS 3 AND 4 ARE
R/AT NO. M007, BALAGHAT'S DRIVERS LANE
CORAMANDAL POST, K.G.F - 563 118.

5. SRI. MOHAMMAD ASADULLA
S/O MOHAMMAD SAWOOD SAHEB
AGED 81 YEARS
R/AT NO. 1757, 3RD CROSS
ROBERTSONPET, K.G.F - 563 120

6. SRI. V.H. MADALLI
S/O LATE H.A. MADALLI
AGED 70 YEARS
R/AT NO. 115, 2ND CROSS
M.V. NAGAR, BEML NAGAR
K.G.F - 563 122.

7. SRI. KEMPAIAH
S/O GOVINDAPPA
AGED 60 YEARS
LECTURER IN HISTORY
FIRST GRADE COLLEGE
OORGAUM, K.G.F - 563 122.

8. SRI. C. MADANAGOPAL
S/O CHINNAPPA
AGED 65 YEARS
R/AT NO. 11TH A CROSS
SWARNANAGAR,
ROBERTSONPET, K.G.F - 563 122.

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9. SRI. C. VANAGAMUDI
S/O M.K. GURUSWAMY
AGED 65 YEARS
R/AT SAPTHAGIRI MATRIC SCHOOL
VENKATESH NAGAR
HOSUR - 635 109 (T.N.)

10. SRI. S. KANTHARAJ
S/O J. SWAMINATHAN
AGED 69 YEARS
R/AT NO.2, 3RD BLOCK, 5TH LANE
7TH MAIN END, DASAPPA LAYOUT,
RAMAMURTHY NAGAR
BANGALORE - 560 016.

11. GUARAV SHANGVI
S/O B. CHAIN RAJ AND BHAWARI BAI,
AGE ABOUT 29 YEARS
C/O VIJAYRAJ,
R/AT 1ST CROSS ROAD
ROBERTSONPET, K.G.F - 563 122.

12. R. PUSHPALATHA
W/O R. SHIVARAJ
AGED ABOUT 41 YEARS
R/AT NO. A/7, OOKET MODEL HOUSE
COROMANDEL POST, K.G.F - 563 125.

…RESPONDENTS

(BY SRI. M.B. CHANDRA CHOODA, ADVOCATE FOR R1 TO R3 AND R12;
SRI. ABHISHEK N.V, ADVOCATE FOR R8;
SRI. VASANTH V. FERNANDES, ADVOCATE FOR R10;
R9 - G. VANAGAMUDI - SERVED

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THIS W.P. FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDERS PASSED BY THE ADDL SENIOR CIVIL JUDGE AND JMFC K.G.F. IN O.S.NO.41/2015 ON IA NO.13 UNDER ORDER VI RULE 17 R/W SECTION 151 OF CPC DTD.22.3.2021 AS PER ANNEXURE-A TO PETITION ALLOW THE APPLICATION IA NO.13 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 the plaintiffs assailing the order passed by the Court below rejecting their application seeking amendment of the plaint.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for respondent No.8. Though some of the contesting respondents remain unserved, having regard to the nature of the controversy involved and upon perusal of the records, this Court is of the view that the matter does not warrant further indulgence. The petition is, therefore, taken up for final disposal.

3. The present petitioners, pursuant to the liberty granted by this Court, instituted a suit for partition in O.S.No.41/2015, which subsequently came to be clubbed with the connected suit

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in O.S.No.62/2012. In the said partition suit, the petitioners have sought partition and separate possession of their legitimate shares by metes and bounds. They have also questioned the validity of the release deed dated 27.04.1992, set up by the defendants, who are the plaintiffs in the connected suit, by seeking a declaration that the said release deed is not binding on their legitimate shares in the suit schedule properties.

4. It is forthcoming from the records that, subsequent to the clubbing of the aforesaid suits, the plaintiffs in O.S.No.62/2012, who are the defendants in the present petitioners' suit, withdrew the said suit. The grievance of the present petitioners, even at the inception, was that O.S.No.62/2012 had been instituted on the strength of an allegedly fraudulent General Power of Attorney. It is in that background that the petitioners sought amendment of the plaint by incorporating two additional paragraphs, proposed to be numbered as paragraphs 11A and 11B, and by introducing an additional prayer questioning the validity of the Power of Attorney dated 10.12.2013.

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5. However, the subsequent withdrawal of O.S.No.62/2012 has materially altered the relevance of the proposed amendment. Once the connected suit, the very institution of which was sought to be questioned on the ground of an allegedly fraudulent Power of Attorney, stands withdrawn, the proposed pleadings and the consequential prayer assailing the said Power of Attorney have lost their relevance to the adjudication of the partition suit. The controversy surrounding the Power of Attorney, which formed the basis for institution of O.S.No.62/2012, would no longer have any bearing on the determination of the substantive rights of the parties in the present proceedings.

6. In the partition suit instituted by the petitioners, the principal controversy that requires adjudication is whether the suit schedule properties constitute joint family ancestral properties and, if so, whether the petitioners are entitled to seek partition and separate possession of their legitimate shares. The petitioners are also required to establish that the release deed dated 27.04.1992, relied upon by the defendants, is not binding on their shares. If the petitioners seek to contend

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that the said release deed is null and void or has been brought into existence by practising fraud, the burden would be on them to establish the said allegations in accordance with law.

7. Therefore, the adjudication in the present suit essentially revolves around the nature and character of the suit schedule properties, the entitlement of the petitioners to seek partition and the legal efficacy and binding nature of the release deed dated 27.04.1992. The proposed challenge to the Power of Attorney dated 10.12.2013, which was the foundation for institution of the subsequently withdrawn suit in O.S.No.62/2012, does not advance the adjudication of any of these core issues. The proposed amendment, therefore, neither has any direct bearing on the substantive reliefs sought in the partition suit nor is it necessary for an effective adjudication of the real controversy between the parties.

8. In that view of the matter, this Court is of the opinion that the learned Judge was justified in declining to exercise discretion in favour of the petitioners. The proposed amendment, in the changed circumstances arising out of the withdrawal of the connected suit, is wholly unnecessary and

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would only introduce an issue which has no direct nexus with the controversy requiring adjudication in the partition suit. The impugned order, therefore, does not suffer from any perversity, infirmity or jurisdictional error warranting interference by this Court in exercise of its supervisory jurisdiction.

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

It is made clear that all contentions of the parties touching upon the nature and character of the suit schedule properties, their entitlement to shares and the validity and binding nature of the release deed dated 27.04.1992 are left open to be urged and adjudicated by the Trial Court on their own merits, without being influenced by any of the observations made herein.

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(SACHIN SHANKAR MAGADUM)
JUDGE

HDK
List No.: 1 Sl No.: 17