HC-KAR

NC: 2026:KHC:60636
WP No. 20925 of 2026

CNR: KAHC010461072026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 20925 OF 2026 (GM-CPC)

BETWEEN:

1. GUNDLU MUNIYAPPA
   S/O CHIKKA KADIRAPPA
   ONE OF THE LRS OF SRI. CHIKKA KADARAPPA (R.10)
   AGED ABOUT 89 YEARS,
   R/AT NO.51, 4TH B BLOCK,
   MESTRI PALYA, MADDURAMMA TEMPLE ROAD
   KORAMANGALA BENGALURU -560 035.

...PETITIONER

(BY SRI. NITIN A M., ADVOCATE)

AND:

1. DODDA SALLAPPA
   S/O LATE KUNTI GUNDLAPPA
   MAJOR, RESIDENTS OF RACHENALLI VILLAGE,
   NAGAWARA POST, BANGALORE - 560 045.

2. APPAJAPPA,
   S/O LATE KUNTI GUNDLAPPA,
   MAJOR, RESIDENTS OF RACHENALLI VILLAGE,
   NAGAWARA POST, BANGALORE - 560 045.

3. SMT. GANGAMMA,
   W/O LATE MOTAPPA,
   MAJOR, (L.R. OF DECEASED DEFENDANT NO.3)
   RESIDENTS OF RACHENALLI VILLAGE,
   NAGAWARA POST, BANGALORE - 560 045.

4. KADARAPPA,
   S/O LATE CHIKKA SALLAPPA,

Digitally signed by VINUTHA B S
Location: High Court of Karnataka

MAJOR, RESIDENTS OF RACHENALLI VILLAGE,
NAGAWARA POST, BANGALORE - 560 045.

5. DODDA NARASIMHA,
S/O LATE CHIKKA SALLAPPA,
MAJOR, RESIDING IN NALLAKADRAHALLI VILLAGE
DASARAHALLI VILLAGE, DASARAHALLI POST,
BANGALORE NORTH - 560 057.

6. MUNI AKKAYAPPA
S/O LATE CHIKKA SALLAPPPA,
MAJOR, RESIDING IN NALLAKADRAHALLI VILLAGE
DASARAHALLI VILLAGE, DASARAHALLI POST,
BANGALORE NORTH - 560 057.

7. CHIKKA NARASIMHA
S/O LATE CHIKKA SALLAPPA
MAJOR, RESIDING IN NALLAKADRAHALLI VILLAGE
DASARAHALLI VILLAGE, DASARAHALLI POST,
BANGALORE NORTH - 560 057.

8. NARAYANA
S/O LATE GANGAPPA
MAJOR, RESIDENT OF MASTRIPALYA KORAMANGALA
LAYOUT, BANGALORE - 560 034.

9. SOMA
S/O LATE GANGAPPA, MAJOR, RESIDENT OF
MASTRIPALYA, KORAMANGALA LAYOUT,
BANGALORE - 560 034.

10. SRI. CHIKKA KADARAPPA
S/O LATE KUNTI GUNDLAP
LRS OF DECEASED RESPONDENT NO.10
LATE MUNIAKKYAPPA, S/O CHIKKA KADIRAPPA,
SINCE DECEASED BY HIS L.RS,
LATE PRABAVATHI, W/O LATE MUNIAKKYAPPA,
SINCE DECEASED BY HIS L.RS,
SMT. MANJULA
GRAND DAUGHTER OF CHIKKA KADIRAPPA

D/O MUNIAKKYAPPA, AGED ABOUT 74 YEARS,
R/AT NO.51, 4TH B BLOCK, MESTRI PALYA,
MADDURAMMA TEMPLE ROAD KORAMANGALA
BENGALURU -560 035.

11. MRS. ANITA
GRAND DAUGHTER OF CHIKKA KADIRAPPA,
D/O. MUNIAKKYAPPA, AGED ABOUT 71 YEARS,
R/AT NO.51, 4TH B BLOCK, MESTRI PALYA,
MADDURAMMA TEMPLE ROAD KORAMANGALA
BENGALURU - 560 035.

12. MRS. ANKITA
GRAND DAUGHTER OF CHIKKA
KADIRAPPA D/O MUNIAKKYAPPA
AGED ABOUT 71 YEARS.
R/AT NO.51, 4TH B BLOCK,
MESTRI PALYA, MADDURAMMA TEMPLE ROAD
KORAMANGALA BENGALURU - 560 035.

13. K. MUNIRAJU
S/O CHIKKA KADIRAPPA
AGED ABOUT 85 YEARS,
R/AT NO.51, 4TH B BLOCK,
MESTRI PALYA, MADDURAMMA TEMPLE ROAD
KORAMANGALA BENGALURU - 560 035.

14. DODDA KADARAPPA
S/O LATE KUNTI, MAJOR, R/AT NO.51, 4TH B BLOCK,
MESTRI PALYA, MADDURAMMA TEMPLE ROAD
KORAMANGALA BENGALURU - 560 035.

15. G GUNDAPPA MUNIYAPPLAPPA
S/O LATE KUNTI, MAJOR, R/AT NO.51, 4TH B BLOCK,
MESTRI PALYA, MADDURAMMA TEMPLE ROAD
KORAMANGALA BENGALURU - 560 035.

16. GUNDLA MUNIYAPPLAPPA
S/O LATE KUNTI, MAJOR, R/AT NO.51, 4TH B BLOCK,
MESTRI PALYA, MADDURAMMA TEMPLE ROAD

KORAMANGALA BENGALURU - 560 035.

…RESPONDENTS

VIDE ORDER DATED 30.10.2026 NOTICE TO RESPONDENTS IS DISPENSED WITH.

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE IN ITS ENTIRETY THE ORDER DATED 29-06-2026 PASSED BY THE HON'BLE XXXI ADDL CITY CIVIL AND SESSIONS JUDGE (CCH - 14) BENGALURU, ON I.A. FILED UNDER SECTION 151 CODE OF CIVIL PROCEDURE, 1908 BY THE PETITIONER IN FDP NO. 55/1989 I.E., ANNEXURE-D AND CONSECUTIVELY ALLOW THE IA FILED UNDER SECTION 151 OF CPC DATED 29-06-2026 I.E, ANNEXURE-B AND ETC.

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

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

ORAL ORDER

The present petition impugns the order dated 29.06.2026, whereby the application seeking restoration of the FDP was rejected.

2. Learned counsel for the petitioner submits that the petitioner’s counsel could not appear on the date on which

the FDP was dismissed, as counsel had met with an accident. It is further submitted that an application was immediately filed seeking recall of the order of dismissal; however, the said application came to be dismissed.

2.1. Learned counsel for the petitioner submits that, if the FDP is not restored, the parties would be deprived of the fruits of the preliminary decree, and their grievance regarding their respective shares in the joint family properties would remain unresolved.

3. Having regard to the limited nature of the issue involved, this Court is inclined to dispense with notice to the respondents.

4. Upon consideration of the submissions made by learned counsel for the petitioner and upon perusal of the impugned order, it is evident that the FDP is of the year 1989 and was instituted for allotment of shares in terms of the preliminary decree passed in the partition suit.

4.1. The Trial Court rejected the application on the ground that a fresh FDP could be instituted. However, instituting a fresh FDP would necessitate recommencement of the proceedings from the initial stage, thereby not only delaying the enjoyment of the fruits of the decree but also resulting in multiplicity of proceedings. Any prejudice that may be caused to the respondents can be adequately compensated by an award of costs.

5. In the result, the following:

ORDER

i. The writ petition is ***allowed.***

ii. The impugned order dated 29.06.2026 passed by the learned XXXI Addl. City Civil and Sessions Judge (CCH-14) Bengaluru, is hereby set aside.

iii. The FDP.No.55/1989 is restored, subject to the condition of costs of Rs.25,000/- payable to the respondents.

Sd/-
(K. V. ARAVIND)
JUDGE

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List No.: 1 Sl No.: 12