HC-KAR

NC: 2026:KHC:61072
WP No. 27956 of 2026

CNR: KAHC010608922026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 3RD DAY OF NOVEMBER, 2026**

**BEFORE**

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

**WRIT PETITION NO. 27956 OF 2026 (GM-CPC)**

**BETWEEN:**

1. SMT. VENKATARAMANAMMA,
   W/O LATE A .GANGADHRI,
   AGED ABOUT 45 YEARS,

2. SRI. G. NAGENDRA,
   S/O LATE A. GANGADHRI
   AGED ABOUT 45 YEARS

   BOTH ARE R/AT SOMESWARA VILLAGE,
   SOMENAHALLI HOBLI,
   GUDIBANDE TALUK,
   CHICKBALLAPUR DISTRICT - 562 104.

...PETITIONERS

(BY SRI. VISHWANATHA R. HEGDE., ADVOCATE)

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

**AND:**

1. SMT. S.G.ESWARAMMA,
   D/O LATE A. GANGADHRI,
   W/O SRI. G.S. CHANDRAPPA,
   AGED ABOUT 44 YEARS,
   R/AT DOOR NO.337, 4TH 'A' CROSS,
   7TH MAIN, II STAGE,

KUMARASWAMY LAYOUT,
BENGALURU - 560 078.

2. STATE BANK OF INDIA,
(FORMERLY STATE BANK OF MYSORE),
HEAD OFFICE AT AVENUE ROAD,
BANGALORE,
HAVING BRANCH OFFICE AT
THIMMAMPALLI VILLAGE,
GULUR HOBLI, BAGEPALLI TALUK,
REPRESENTED BY ITS
BRANCH MANAGER.

…RESPONDENTS

(NOTICE TO RESPONDENTS IS DISPENSED WITH VIDE ORDER DATED 03.1.2026)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT, ORDER OR DIRECTION QUASHING THE ORDER DATED 18-07-2025 ON THE LAS O.S.NO.65/2017 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC AT GUDIBANDE (ANNEXURE-L) 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

CNR: KAHC010608922026

**ORAL ORDER**

The present petition assails the order dated 18.07.2026, whereby the application filed under Order XVIII Rule 17 of the Code of Civil Procedure, 1908, seeking recall of PW.1 for the purpose of cross-examination, came to be rejected.

2. Learned counsel appearing for the petitioners submits that a Co-ordinate Bench of this Court, by order dated 25.09.2025 passed in W.P.No.10617/2021, permitted the petitioners to file a belated written statement, subject to payment of costs. In that view, it is contended that the petitioners/defendants are entitled to cross-examine the plaintiff's witnesses.

2.1 It is further submitted that, in the interregnum, petitioner No.2 met with an accident and was hospitalised. Consequently, though the written statement was filed, the petitioners could not pay the costs imposed. It is also submitted that, despite an opportunity being granted to cross-examine PW.1, the petitioners could not avail themselves of the same. Learned

counsel contends that the impugned order has been passed on hypertechnical grounds.

3. Considered the submissions made by learned counsel for the petitioners and perused the material on record.

4. Having regard to the limited issue involved in the petition and the order this Court proposes to pass, issuance of notice to the respondents would only result in unnecessary hardship and delay. Accordingly, notice to the respondents is dispensed with.

5. It is evident that this Court, by judgment dated 25.09.2025 passed in W.P.No.10617/2021, permitted the petitioners to file their written statement, subject to payment of costs of Rs.10,000/-. As is evident from the impugned order, the written statement has been filed. However, the costs of Rs.10,000/- were not deposited within the stipulated period of 30 days. On that ground, the application seeking recall of PW.1 for the purpose of cross-examination came to be rejected.

6. It is submitted that the petitioners are willing to deposit the costs; however, the Trial Court has not permitted them to do so. This Court finds that the approach adopted by the Trial

Court is hypertechnical. If the petitioners are not permitted to cross-examine PW.1, the very purpose of permitting them to file their written statement, pursuant to the order passed by the Co-ordinate Bench of this Court in W.P.No.10617/2021 dated 25.09.2025, would stand defeated.

7. Moreover, the suit is one for partition. If the petitioners are deprived of an opportunity to cross-examine the plaintiff's witness, they would be denied an effective opportunity to establish their defence. On the other hand, permitting the petitioners to cross-examine PW.1 would assist the Trial Court in the complete and effective adjudication of the suit.

8. In that view of the matter, the following :

**O R D E R**

I. The writ petition is ***allowed***.

II. The impugned order dated 18.07.2026 passed by the Senior Civil Judge, Gudibande, is hereby ***set aside***.

III. The application filed seeking recall of PW.1 for cross-examination is ***allowed***, subject to payment of costs of Rs.5,000/-.

IV. The petitioners are permitted to deposit the costs of Rs.10,000/- as directed by this Court in W.P.No.10617/2021, by order dated 25.09.2025.

V. The petitioners shall be permitted to cross-examine PW.1 only upon payment of the entire costs of Rs.15,000/-, as directed in W.P.No.10617/2021 and in this order.

VI. The petitioners shall complete the cross-examination of PW.1 on the date fixed by the Trial Court, without seeking any adjournment.

**Sd/-**
**(K. V. ARAVIND)**
**JUDGE**

SJK
List No.: 1 Sl No.: 7