HC-KAR

NC: 2026:KHC:59901
WP No. 30930 of 2026

CNR: KAHC010676922026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 30930 OF 2026 (GM-CPC)

BETWEEN:

1. SMT. SHILPA IYYAR
   W/O. SRI. PRATHEEP KUMAR
   AGED ABOUT 44 YEARS
   R/AT NO.145, ABHYUDAYA,
   3RD CROSS, 2ND MAIN ROAD,
   5TH BLOCK, BSK 3RD STAGE,
   BENGALURU - 560050.

   REPRESENTED BY HER GPA HOLDER
   SRI. PRATHEEP KUMAR
   AGED ABOUT 50 YEARS
   SON OF KRISHNAN JAYANDAN
   RESIDING AT NO.14,
   PRIVALIZE THILAK APARTMENT,
   6TH CROSS, UTTARAHALLI MAIN ROAD,
   GOWDANA PALYA, BENGALURU.

   PRESENTLY RESIDING AT
   NO.405, SUMO KRUPA,
   TEMPLE VIEW APARTMENT,
   SUBRAMANYAPURA MAIN ROAD,
   GUBBALALA, BENGALURU - 560061.

   ...PETITIONER

(BY SRI. VELLANKI RAVI, ADVOCATE FOR
SRI P.B. RAJU, ADVOCATE)

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

AND:

1. SRI. BORAIAH
   S/O. LATE BORAIAH
   AGED ABOUT 85 YEARS,

2. SRI. UMESH B.,
   S/O. SRI. BORAIAH
   AGED ABOUT 46 YEARS.

   BOTH ARE RESIDING AT
   BOLARE VILLAGE, KOPPA HUBLI,
   MADDUR TALUK, MANDYA DIST.

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS IN O.S NO.177/2022 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC AT MADDUR AND BE PLEASED TO ISSUE WRIT OF CERTIORARI OR SUCH OTHER WRIT QUASHING THE ORDERS DATED 13.08.2026 PASSED ON IA NO.11 FILED UNDER ORDER XXVI RULES 1 AND R/W. SECTION 151 OF CPC, FILED BY THE PETITIONER /DEFENDANT IN O.S NO.177/2022 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC AT MADDUR AND CONSEQUENTLY ALLOW THE SAID APPLICATION. WHICH IS PRODUCED AT ANNEXURE-A TO THE WRIT PETITION AND ETC,.

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

CNR: KAHC010676922026

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

ORAL ORDER

The present petition impugns the order dated 13.08.2026, whereby the Trial Court rejected I.A. No. XI filed under Order XXVI Rules 1 and 4 of the Code of Civil Procedure, 1908, seeking appointment of a Court Commissioner to record the evidence of the defendant represented by her GPA holder.

2. Learned counsel appearing for the petitioner submits that the petitioner is suffering from multiple ailments, including hyperintense bone marrow changes, on account of which the petitioner is unable to move.

2.1 It is further submitted that medical records were placed before the Trial Court in support of the aforesaid contention. However, the Trial Court, without duly considering the medical records and the petitioner's medical condition, erroneously rejected the application.

3. Considered the submissions made by the learned counsel for the petitioner.

4. The plaintiffs have instituted the suit seeking a decree of specific performance. The agreement in question is stated to have been executed by the petitioner, acting as the General Power of Attorney holder of Shilpa Iyer. The present application has been filed seeking appointment of a Court Commissioner for recording the petitioner's evidence.

5. The medical record placed before the Court is an MRI report. The said document is only an MRI scan report and does not indicate any mobility-related disability affecting the petitioner. Though it is submitted that the petitioner is undergoing treatment at different places, the mere fact that the petitioner is receiving treatment at different locations would not, by itself, establish an inability to appear before the Court for the purpose of giving evidence.

6. If the petitioner experiences any difficulty in appearing before the Court, it is always open to the petitioner to seek priority consideration from the Trial Court. In the absence of any demonstrable grounds warranting appointment of a Court Commissioner for recording the petitioner's evidence, this Court

finds no error or infirmity in the impugned order warranting interference.

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

8. The Trial Court is, however, requested to consider taking up the matter on priority when the petitioner appears before it for recording of evidence and to extend such appropriate assistance as may be necessary, having regard to the petitioner's medical condition.

SD/-
(K. V. ARAVIND)
JUDGE

DDU
List No.: 1 Sl No.: 14