HC-KAR

NC: 2026:KHC:63695
WP No. 31935 of 2026
C/W WP No. 31653 of 2026

CNR: KAHC010691972026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 31935 OF 2026 (GM-CPC)

C/W

WRIT PETITION NO. 31653 OF 2026 (GM-CPC)

IN WP No. 31935/2026

BETWEEN:

1. HIS HOLINESS SRI VIDYABHINAVA
VIDYARANYA BHARATHI SWAMIJI
PEETHAPATHI OF SRIMAD JAGADGURU
SHANKARACHARYA SRI KUDALI SRINGERI
MAHASAMSTHANAM, KUDALI POST, KUDALI,
SHIVAMOGGA TALUK AND DISTRICT
KARNATAKA 577 227

REPRESENTED BY GPA HOLDER,
MR. NITHIN HERALE P.,
S/O. PRAKASHA,
AGED ABOUT 35 YEARS,
RANGANATHA SWAMY BEEDU,
GAJANUR VILLAGE,
SHIVAMOGGA TALUK,
SHIVAMOGGA DISTRICT 577 202.

...PETITIONER

(BY SRI. KESHAV M DATAR, ADVOCATE)

Digitally signed by VIJAYA P
Location: High Court of Karnataka

AND:

1. MR. DATTARAJ A DESHPANDE
@ MR. ABHINAVA SHANKAR BHARATI,
AGED ABOUT 40 YEARS,
S/O SRI. VIDYASHANKARA
NO. 74, 1ST CROSS, 7TH MAIN,
ASHOKA PILLAR, JAYANAGAR 2ND BLOCK,
BENGALURU 560 011
ALSO AT
KUDALI POST, KUDALI,
SHIVAMOGA TALUK AND DISTRICT
KARNATAKA-577 227

2. MR. CHINMAYA BHAT B.,
S/O B. ANANTHAIAH BHAT
AGED ABOUT 49 YEARS,
SIR. RAMANAMA JAPADA MANE,
KUDLI, KUDLI POST, KUDLI,
SHIVAMOGGA TALUK AND DISTRICT,
SHIVAMOGGA 577 227.

3. M/S KUDLI SHARADHA FOUNDATION
A REGISTERED TRUST
HAVING ITS OFFICE AT
KUDALI POST, KUDALI,
SHIVAMOGA TALUK AND DISTRICT
KARNATAKA-577 227
PAN NO.AAFTK5855L
REPRESENTED BY TRUSTEE

4. SRI. SRINIVAS K.C. @ SRINIVAS IYER
S/O CHANDRASHEKAR D.
AGED ABOUT 37 YEARS,
KUDALI POST, KUDALI,
SHIVAMOGA TALUK AND DISTRICT
KARNATAKA - 577 227

…RESPONDENTS

(BY SMT. NIKITHA ADINARAYAN, ADVOCATE FOR C/R1)

THIS WP IS FILED UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA PRAYING TO SETTING ASIDE THE IMPUGNED ORDER DATED 02.09.2026 PASSED ON I A NO. 1 IN MISC NO. 602/2026 BY THE HON'LE XXII ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU (CH-7) VIDE ANNEXURE-A.

IN WP No. 31653/2026

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1. HIS HOLINESS SRI VIDYABHINAVA
   VIDYARANYA BHARATHI SWAMIJI
   PEETHAPATHI OF SRIMAD JAGADGURU
   SHANKARACHARYA SRI KUDALI SRINGERI
   MAHASAMSTHANAM, KUDALI POST, KUDALI,
   SHIVAMOGGA TALUK AND DISTRICT
   KARNATAKA 577 227

   REPRESENTED BY GPA HOLDER,
   MR. NITHIN HERALE P.,
   S/O. PRAKASHA,
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   RANGANATHA SWAMY BEEDU,
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   SHIVAMOGGA DISTRICT 577 202.

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AGED ABOUT 37 YEARS,
KUDALI POST, KUDALI,
SHIVAMOGA TALUK AND DISTRICT
KARNATAKA - 577 227

…RESPONDENTS

(BY SMT. NIKITHA ADINARAYAN, ADVOCATE FOR C/R1)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SETTING ASIDE THE IMPUGNED ORDER DATED 07.09.2026 PASSED ON I A NO.2 IN MISC NO.601/2026 BY THE HON'LE XXII ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU (CH-7) VIDE ANNEXURE-A.

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

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

ORAL ORDER

The dispute involved in both the petitions is identical, and common submissions have been addressed. Accordingly, both the petitions are disposed of by this common order.

2. W.P. No.31653/2026 impugns the order dated 07.09.2026 passed in Misc. No.601/2026, whereby I.A. No.2 filed by the respondent under Order XIX Rules 1 and 2 of the CPC was allowed, directing the petitioner to appear before the Court for an enquiry in the application filed under Order XXXIX Rule 2-A of the CPC and to submit to cross-examination.

2.1 W.P. No.31935/2026 impugns the order dated 02.09.2026 passed in Misc. No.602/2026, whereby I.A. No.1 filed by the petitioner under Order III Rule 2 of the CPC, seeking permission to prosecute the case through a General Power of Attorney holder, came to be rejected.

3. Learned counsel appearing for the petitioner submits that O.S. No.4300/2025 was instituted seeking injunctive relief

restraining defendant No.1 from making certain claims, apart from other consequential reliefs.

3.1 It is submitted that, by order dated 20.06.2025, the Trial Court restrained defendant No.1 from claiming himself to be the 72nd Peetadhipati and defendant Nos.1 to 4 from using the name of the Mutt in any manner. In view of the alleged violation of the said order of injunction, the petitioner herein filed an application under Order XXXIX Rule 2-A of the CPC.

3.2 It is further submitted that, as the petitioner is unable to participate in the day-to-day proceedings before the Court, he executed a General Power of Attorney in favour of Sri. Nithin Herale P., who is familiar with the transactions and has personal knowledge of the alleged incident of disobedience of the order of injunction. The GPA holder examined himself as a witness, and the proceedings had progressed to the stage of partial cross-examination. At that stage, a memo was filed seeking to discard the evidence of the GPA holder. The said memo came to be rejected, and the order of rejection was

affirmed by this Court in W.P. No.25020/2026, disposed of on 29.08.2026.

3.3 It is submitted that this Court has elaborately considered the scope and evidentiary value of the testimony of a GPA holder in the aforesaid proceedings. In the light of the same, the impugned orders cannot be sustained.

4. *Per contra*, learned counsel appearing for respondent No.1 submits that the application under Order XXXIX Rule 2-A of the CPC has been filed by reiterating the averments made in the plaint. The facts pleaded both in the plaint and in the application are within the personal knowledge of the petitioner. In that view, an application under Order XIX Rules 1 and 2 of the CPC was filed seeking permission to cross-examine the petitioner with regard to the averments made in the affidavit accompanying the application under Order XXXIX Rule 2-A of the CPC.

4.1 It is submitted that, having regard to the nature of the averments made in the affidavit, which relate to facts within the personal knowledge of the petitioner, his cross-examination

was necessary. The Trial Court, having considered such necessity, has rightly allowed the application.

4.2 It is further submitted that where the pleadings relate to facts within the personal knowledge of a party, the person who has made such assertions is required to be subjected to cross-examination. A General Power of Attorney holder, whose knowledge of the facts is limited, cannot be permitted to depose in support of the application filed under Order XXXIX Rule 2-A of the CPC.

4.3 It is also submitted that the application filed under Order XXXIX Rule 2-A of the CPC does not disclose the presence of the GPA holder at the relevant time or otherwise indicate that he had personal knowledge of the facts pleaded therein. In that view, the Trial Court was justified in rejecting the application seeking permission to prosecute the proceedings through the GPA holder.

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

6. The suit was instituted by the petitioner, in which an order of temporary injunction came to be granted, which is alleged to have been violated. Alleging such violation, the petitioner herein filed an application under Order XXXIX Rule 2A of the CPC. A perusal of the averments made in the said application indicates that the manner in which the order of temporary injunction was allegedly violated has been specifically set out.

7. The application filed by the petitioner under Order III Rule 2 of the CPC, seeking permission to prosecute the proceedings through a General Power of Attorney holder, also refers to the latter's personal knowledge of the transactions and the alleged incident of violation of the order of injunction.

8. The extent to which the evidence of a GPA holder can be relied upon by the Court and the evidentiary value of such testimony have been elaborately considered by this Court in W.P. No.25020/2026, disposed of on 29.08.2026, arising out of the very same proceedings. Though the impugned orders were passed subsequent to the disposal of the aforesaid writ petition on 29.08.2026, both learned counsel fairly submit that the Trial

Court did not have the benefit of the order passed by this Court in W.P. No.25020/2026 while passing the impugned orders.

9. Having regard to the fact that the Co-ordinate Bench of this Court has extensively considered the scope of the authority of a GPA holder and the extent to which his evidence can be relied upon, this Court is of the view that both the impugned orders warrant interference and require reconsideration by the Trial Court in the light of the observations made by the Co-ordinate Bench in W.P. No.25020/2026.

10. Though various contentions have been raised by the parties, it is unnecessary to adjudicate upon the same at this stage. Liberty is reserved to the parties to urge all such contentions before the Trial Court in the remanded proceedings.

11. Accordingly, the following :

O R D E R

I. W.P. Nos.31935/2026 and 31653/2026 are ***allowed in part***.

II. The order dated 07.09.2026 passed in Misc. No.601/2026 on I.A. No.2 and the order dated 02.09.2026 passed in Misc. No.602/2026 on I.A. No.1 are hereby ***set aside***.

III. I.A. No.1 filed under Order III Rule 2 of the CPC and I.A. No.2 filed under Order XIX Rules 1 and 2 of the CPC are ***restored*** to the file of the Trial Court for fresh consideration in the light of the observations made and the law laid down by this Court in W.P. No.25020/2026, decided on 29.08.2026.

IV. Needless to observe that, since the competency of the GPA holder to prosecute the proceedings itself is in question, the Trial Court shall first adjudicate the applications restored hereinabove before proceeding further in the matter.

V. Any observations made by this Court in this order are confined to the disposal of these petitions and shall not influence the consideration of the applications on their merits.

VI. The Trial Court shall endeavour to complete the aforesaid exercise within three months from today.

VII. All contentions of both parties are kept open.

Sd/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 17