HC-KAR

NC: 2026:KHC:62426
WP No. 31704 of 2026

CNR: KAHC010692202026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 31704 OF 2026 (GM-CPC)

BETWEEN:

1. THE CONGREGATION OF THE SONS OF THE
IMMACULATE HEART OF MARY
MARY (CLARETIAN FATHERS)
FORMERLY AT:
SHANTI NIVAS STUDY HOUSE,
NO.1, 10-A MAIN ROAD,
4TH CROSS, MALLESWARAM,
BEGALURU-560055
NOW AT
CLARET BHAVAN,
CARMELARAM POST,
BENGALURU - 560035
REPRESENTED BY ITS
AUTHORIZED SIGNATORY.
FR. VINSENT KIRAN
AGED 39 YEARS
S/O SRI. RAYAPPA
RESIDING AT
CLARET BHAVAN
CARMELARAM POST
BENGALURU -560035.

2. CLARET BHAVAN - NOVITIATE HOUSE OF
CLARETIAN CONGREGATION
HAVING ITS OFFICE AT
CLARET BHAVAN,
CARMELARAM POST,
BENGALURU -560035.

Digitally signed by VIJAYA P
Location: High Court of Karnataka

REPRESENTED BY ITS AUTHORISED SIGNATORY
FR. VINSENT KIRAN
AGED 39 YEARS
S/O SRI. RAYAPPA
RESIDING AT
CLARET BHAVAN,
CARMELARAM POST,
BENGALURU 560035.

3. INDIAN PROVINCE OF CLARETIAN CONGREGATION,
HAVING ITS ADMINISTRATIVE OFFICE AT
THE CLARETIAN PROVINCIAL HOUSE,
28/12, 18TH CROSS ROAD,
14TH MAIN ROAD, MALLESWARAM,
BENGALURU 560055.
REP. BY ITS AUTHORIZED SIGNATORY,
FR. VINSENT KIRAN
AGED 39 YEARS
S/O SRI. RAYAPPA.

4. FATHER T. KURIAKOSE
AGED ABOUT 81 YEARS,
S/O V.T. KURIAKOSE,
CLARETIAN PROVINCIAL HOUSE,
KARUKUTTY P.O., ANGAMALY,
ERNAKULAM (DIST)
KERALA 683 576.
CURRENTLY RESIDING AT
THEKILAKKATTIL (HOUSE),
MARIA SADAN, CLARET BHAVAN,
KURAVILANGAD, KOTTAYAM (DIST)
KERALA 686633.

…PETITIONERS

(BY SMT. LOKESHWARI H.C., ADVOCATE FOR
SRI. RAVISHANKAR A., ADVOCATE)

AND:

1. MR. SANTHOSH THAZHATHU
AGED ABOUT 55 YEARS,

S/O LATE DR. MATHEW THAZHATHU,
PRESENTLY RESIDING AT
VILLA NO. 9, CHAITHANYA RAKUEN,
SWAMI VIVEKANANDA ROAD,
NEAR HOPE FARM JUNCTION,
WHITEFIELD, BANGALORE-560066.

…RESPONDENT

(BY SRI SWAROOP S., ADVOCATE FOR C/R)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 15.9.2026 PASSED ON IA-8 AT ANNEXURE-A IN O.S.1834/2022 BY THE III ADDITIONAL SENIOR CIVIL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, AND ALLOW I.A.8 FILED BY THE PLAINTIFFS UNDER ORDER XI RULE 5 READ WITH SECTION 151 OF CPC,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, 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 15.09.2026 passed in O.S. No.1834/2022, whereby the application filed under Order XI Rule 5 of the CPC, seeking a direction to defendant No.1 to produce the original General Power of Attorney dated 31.05.2016, came to be rejected.

2. Learned counsel appearing for the petitioners/plaintiffs submits that the GPA dated 31.05.2016 was executed in favour

of defendant No.1 and that its execution is admitted. However, the original GPA has not been produced before the Court.

2.1 It is further submitted that, upon execution of the GPA being admitted, the original document would ordinarily remain in the custody of the power of attorney holder, namely, defendant No.1, for the purpose of exercising the authorisations conferred thereunder. In the absence of any denial of its execution, defendant No.1 ought to have been directed to produce the original GPA before the Court.

3. *Per contra*, learned counsel appearing for respondent/defendant No.1 submits that, upon execution of the subsequent sale deed in favour of defendant No.1, the question of the GPA in respect of the same property would not arise.

3.1 It is further submitted that the original GPA was never handed over to defendant No.1. In the absence of any material to establish that the original GPA is in the custody of defendant No.1, the Trial Court was justified in rejecting the application.

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

5. The suit is one for rescission of the sale deed. The subject matter of the impugned application is a direction to defendant No.1 to produce the original GPA dated 31.05.2016. The execution of the GPA is not in dispute, as defendant No.1 has categorically admitted its execution.

6. The limited issue that arises for consideration is with regard to the custody of the original GPA. While the petitioners/plaintiffs contend that the original GPA is in the custody of defendant No.1, the latter specifically denies possession of the said document. There is no prima facie material placed before the Trial Court to establish that the original GPA dated 31.05.2016 is in the possession or control of defendant No.1 so as to warrant a direction for its production. In view of the specific denial, it is for the plaintiffs/petitioners to establish that the original GPA is in the custody of defendant No.1. The said aspect would be open for consideration by the Trial Court on the basis of the material placed on record.

7. In the absence of any prima facie material establishing that the original GPA dated 31.05.2016 is in the possession or

control of defendant No.1, this Court finds that the Trial Court was justified in rejecting the application. No error warranting interference with the impugned order is made out.

8. It is, however, made clear that this order shall not preclude the petitioners/plaintiffs from availing themselves of such other remedies as may be available in law in relation to the GPA and its admissibility or consideration in evidence.

9. The suit is of the year 2022 and is still at the stage of plaintiffs' evidence. There are no justifiable reasons for the delay in the progress of the suit. Though this Court is not inclined to prescribe a specific timeline for its disposal, it is appropriate to observe that the suit has not progressed in the manner expected. Accordingly, the Trial Court is directed to expedite the disposal of the suit.

Accordingly, the writ petition stands ***disposed of***.

SD/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 10