HC-KAR

NC: 2026:KHC:61877
WP No. 32044 of 2026

CNR: KAHC010699772026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 32044 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. KRISHNEGOWDA
   S/O LATE NARASEGOWDA
   AGED ABOUT 71 YRS,
   R/A UDDUR VILLAGE
   KASABHA HOBLI
   HUNSUR TALUK - 571 105
   MYSURU DISTRICT.

...PETITIONER

(BY SMT. KALPANA P.V., ADVOCATE)

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

AND:

1. SRI. SURESH
   S/O K. S. MADEGOWDA
   AGED ABOUT 48 YRS.,
   R/A UDDUR VILLAGE
   KASABHA HOBLI
   HUNSUR TALUK - 571 105

MYSURU DISTRICT.

2. SMT. SANNAMMA
W/O LATE UCHEGOWDA
AGED ABOUT 74 YRS.,
R/A UDDUR VILLAGE
KASABHA HOBLI
HUNSUR TALUK - 571 105
MYSURU DISTRICT.

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER PASSED BY PRL SR CIVIL JUDGE AND JMFC AT HUNSUR IN RA NO.8/2022 ON 08.02.2024 IN I A NO.2 FILED UNDER ORDER 26 RULE 9 R/W SECTION 151 OF CPC VIDE ANNEXURE F. AND B. TO ALLOW THE IA NO.2 FILED UNDER ORDER 26 RULE 9 R/W SECTION 151 OF CPC VIDE ANNEXURE E BEFORE PRL SR CIVIL JUDGE AND JMFC AT HUNSUR IN RA NO.8/2022 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

ORAL ORDER

The present petition is filed challenging the order dated 08.02.2024, whereby the application filed under Order XXVI Rule 9 of the Code of Civil Procedure in R.A.No.8/2022 came to be rejected.

2. Learned counsel appearing for the petitioner submits that the dispute relates to encroachment of boundaries, which requires investigation by a Court Commissioner to ascertain the relevant facts and assist the Court in the effective adjudication of the appeal. It is submitted that, though no such effort was made during the course of the trial, an appeal being a continuation of the suit, the First Appellate Court is competent to exercise its jurisdiction under Order XXVI Rule 9 of the Code of Civil Procedure and appoint a Court Commissioner to ascertain the true facts.

2.1 It is further submitted that the Appellate Court rejected the application on the technical ground that no attempt had been made to seek appointment of a Court Commissioner during the course of the trial.

3. Considered the submissions made by the learned counsel for the petitioner and perused the impugned order.

4. This Court is not inclined to examine the grounds urged in the petition, as the challenge is directed against the order dated 08.02.2024, whereas the present petition has been filed only on 06.10.2026. Though a writ petition is not governed by any prescribed period of limitation, the jurisdiction of this Court is required to be invoked within a reasonable time. In the present case, the petition has been presented after a lapse of more than two and a half years. Such an inordinate delay cannot be considered reasonable so as to warrant entertainment of the petition.

5. Accordingly, the petition is ***rejected*** on the ground of delay and *laches*.

Sd/-
(K. V. ARAVIND)
JUDGE

DDU
List No.: 1 Sl No.: 10