HC-KAR

NC: 2026:KHC:65095
WP No. 32734 of 2026

CNR: KAHC010722042026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 32734 OF 2026 (GM-CPC)

BETWEEN:

SRI. GANESH
S/O APPAJI
AGED ABOUT 39 YEARS
RESIDING AT RUDRAKSHIPURA VILLAGE,
ATHAGUR HOBLI, MADDUR TALUK
MANDYA DISTRICT - 571 429.

...PETITIONER

(BY SRI. SUNIL S. RAO, ADVOCATE FOR
SRI. T. SESHAGIRI RAO, ADVOCATE)

AND:

1. KUM. MEGHANA
D/O OF P. MANJU
AGED ABOUT 22 YEARS

2. SMT. ROOPA
W/O P. MANJU
AGED ABOUT 41 YEARS

3. SRI. P. MANJU
S/O PUTTABASAVA
AGED ABOUT 46 YEARS

ALL ARE RESIDING AT
HUNSAMARADADODDI VILLAGE,

Digitally signed by VIJAYA P
Location: High Court of Karnataka

HAMLET OF RUDRAKSHIPURA VILLAGE,
ATHAGUR HOBLI, MADDUR TALUK,
MANDYA DISTRICT - 571 429.

4. SRI. DARSHAN KUMAR
S/O P. MANJU
AGED ABOUT 24 YEARS

ALL ARE RESIDING AT
HUNSAMARADADODDI VILLAGE,
HAMLET OF RUDRAKSHIPURA VILLAGE,
ATHAGUR HOBLI, MADDUR TALUK,
MANDYA DISTRICT - 571 429.

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO I. ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION FOR QUASHING OF THE IMPUGNED ORDER DATED 28.02.2026 ONE PASSED BY THE SENIOR CIVIL JUDGE, MADDUR IN MISC.NO.02/2024 FOUND AT ANNEXURE A TO THE WRIT PETITION 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 writ petition is filed challenging the order dated 28.02.2026 passed by the Senior Civil Judge,

Maddur, in Misc. No.02/2024, whereby O.S. No.64/2019 came to be restored.

2. Learned counsel appearing for the petitioner submits that the suit is one for specific performance. Defendant No.4 was adequately represented by defendant Nos.1 and 2, who are his parents. However, defendant Nos.1 and 2 were initially placed ex parte, and subsequently, defendant No.4 came to be represented by a Court-appointed guardian.

2.1 It is further submitted that the order placing defendant Nos.1 and 2 ex parte was subsequently recalled, pursuant to which the trial proceeded. However, defendant No.4 continued to be represented by the Court-appointed guardian. Despite the same, the Trial Court proceeded on an erroneous premise that defendant No.4 had been placed ex parte and, on that basis, passed the impugned order restoring the suit.

3. I have considered the submissions made by the learned counsel for the petitioner and perused the material available on record.

4. The suit is one for specific performance, wherein defendant No.4 was aged about 15 years as on the date of institution of the suit in the year 2019. It appears that defendant No.4 was initially represented by his natural guardians, namely, his father and mother, who were placed ex parte by the Trial Court. Thereafter, a Court-appointed guardian came to be appointed to represent the interests of minor defendant No.4.

5. However, it is evident from the order sheet that defendant No.4 was placed ex parte with effect from 19.09.2022. The circumstances under which defendant No.4 came to be placed ex parte are not forthcoming from the record. It appears that, by then, defendant No.4 had attained majority and was no longer represented by the

Court-appointed guardian. Thereafter, he came to be recorded as ex parte.

6. It is also not in dispute that defendant No.4 had attained majority, a fact which was within the knowledge of the petitioner. Nevertheless, no steps were taken to issue notice to defendant No.4 upon his attaining majority. The failure on the part of the plaintiff to bring defendant No.4 on record in his capacity as a major, or the Trial Court proceeding to place him ex parte without ensuring proper representation, would undoubtedly prejudice his rights.

7. Defendant No.4 is a party to the agreement, which is the subject matter of the suit for specific performance. In the circumstances, the Trial Court was justified in restoring the suit by the impugned order, so as to afford an opportunity to defendant No.4 to contest the proceedings.

8. Learned counsel appearing for the petitioner, however, submits that the Judgment and Decree were

passed on 02.12.2023 and that plaintiffs Nos.1 to 3 have not challenged the said Judgment and Decree, which has consequently attained finality. It is, therefore, contended that, to that extent, execution of the decree is permissible.

9. Alternatively, it is submitted that when the suit is restored only for the purpose of affording an opportunity to defendant No.4, and in the absence of any challenge to the Judgment and Decree dated 02.12.2023 by plaintiffs Nos.1 to 3, the scope of restoration cannot be enlarged so as to permit the other parties to reopen the proceedings or reagitate issues which have attained finality.

10. It is to be noticed that the Judgment and Decree dated 02.12.2023, insofar as plaintiffs Nos.1 to 3 are concerned, has attained finality, there being no challenge to the same. Having regard to the reasons assigned by the Trial Court in the impugned order, it is evident that the restoration of the suit is intended only to afford an

opportunity to defendant No.4 to contest the proceedings and protect his rights.

11. In that view of the matter, restoration of the suit shall be confined to the extent of affording an opportunity to defendant No.4 to contest the proceedings. The Judgment and Decree dated 02.12.2023, insofar as it concerns plaintiffs Nos.1 to 3 and the rights flowing therefrom, shall remain undisturbed, subject to the rights and contentions of defendant No.4 in the restored proceedings.

With the above observations and clarification, the writ petition stands ***disposed of***.

Sd/-
(K. V. ARAVIND)
JUDGE

VN
List No.: 2 Sl No.: 7