HC-KAR

NC: 2026:KHC:64995
WP No. 33349 of 2026

CNR: KAHC010727982026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 33349 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. NEMICHAND JAIN
S/O LATE SESHAMAL M. JAIN,
AGED ABOUT 70 YEARS,
R/AT NO.10/3, N.P.S. ROAD,
BASAVANAGUDI, BENGALURU - 560 004.

2. SMT. SUSHILA RATHOD,
W/O DEEPCHAND RATHOD,
AGED ABOUT 66 YEARS,
R/AT NO.3, SR.NO.584/B,
SALISBURY PARK, GULTEKADI,
PUNE, MAHARASHTRA - 411 037

Digitally signed by VIJAYA P
Location: High Court of Karnataka

3. SMT. KAUSHALYA ASHOK OSWAL,
W/O ASHOK OSWAL
AGED ABOUT 62 YEARS,
R/AT 2804, B44/46,
SANGVI BUNGALOW,
NO.4, PADMAVATHI NAGAR,
MANGALWAR PETH, KOLHAPUR,
MAHARASHTRA - 416 012

4. SMT. KARUNA ARAVIND JAIN,
W/O ARAVIND KUMAR JAIN,
AGED ABOUT 64 YEARS,

R/AT NO.458, RANGANATH NAGAR,
RANEBENNUR TOWN,
HAVERI DISTRICT - 581 115

5. SRI. TEJPAL,
S/O LATE SESHAMAL M. JAIN,
AGED ABOUT 58 YEARS,
R/AT NO.10/3, N.P.S. ROAD,
BASAVANAGUDI, BENGALURU - 560 004.

6. SMT. UMA NARENDRA RATHOD,
W/O NARENDRA RATHOD,
AGED ABOUT 61 YEARS,
R/AT NO.191/4B/10/11,
BASAVA NAGARA, GOKAK,
BELAGAVI DISTRICT,
KARNATAKA - 591 307.

7. SMT. REKHA RAVINDRA RATHOD,
W/O RAVINDRA RATHOD,
AGED ABOUT 54 YEARS,
R/AT NO.1541/11A, C WARD,
LAXMIPURI, SHANIVAR PETH,
KOLHAPUR, MAHARASHTRA - 416 002.

PETITIONERS ARE REPRESENTED
BY THEIR GPA HOLDER, SRI. TEJPAL
S/O LATE SESHAMAL M. JAIN,
AGED ABOUT 58 YEARS,
R/AT NO. 10/3, N.P.S. ROAD,
BASAVANAGUDI, BENGALURU - 560 004.

…PETITIONERS

(BY SRI. RAJENDRA M.S, ADVOCATE)

AND:

1. SRI. P. TARACHAND
   S/O LATE PRATAPCHAND OSWAL,
   AGED ABOUT 71 YEARS,
   PRATAP DEVELOPERS,
   NO.GF-003, GOVINDAR CASTLE,
   GOVINDAPPA ROAD, GANDHI BAZAAR,
   BASAVANAGUDI, BENGALURU - 560 004.

2. SRI. BABHUTMAL,
   S/O LATE PRATAPCHAND OSWAL,
   AGED ABOUT 73 YEARS,
   R/AT NO.80, DIAGONAL ROAD,
   V.V. PURAM, GANDHI BAZAAR,
   BENGALURU - 560 004.

3. SRI. V. HIRACHAND,
   S/O LATE K. VIRACHANDJI,
   AGED ABOUT 75 YEARS, AUDITOR,
   NO. 123, KILARI ROAD, 1ST FLOOR,
   BENGALURU - 560 053.

4. SRI. KUMARPAL,
   S/O LATE K. VIRACHANDJI,
   AGED ABOUT 71 YEARS,
   R/AT NO.498, NEW TOWN BANGARPET,
   KOLAR DISTRICT - 563 114.

…RESPONDENTS

(VIDE ORDER DATED 21.11.2026, NOTICE TO RESPONDENTS IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) ISSUE A WRIT OF

CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE ORDER DATED 05.09.2026 PASSED ON I.A.NO.IV IN F.D.P.NO.113/2010 BY THE XXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH- 7), PRODUCED AS ANNEXURE-A 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

This petition calls in question the order dated 05.09.2026 passed by the XXII Additional City Civil and Sessions Judge, Bengaluru, whereby consideration of FDP No.113/2010 has been deferred.

2. The Learned counsel appearing for the petitioner submits that O.S. No.2018/1995 came to be decreed on 20.02.2007, placing defendant No.1 therein ex parte. It is submitted that FDP No.113/2010 was instituted seeking the drawing up of a final decree to give effect to the preliminary decree passed in the said suit.

2.1 It is further submitted that Misc. No.781/2011 was filed seeking to set aside the judgment and decree passed in O.S. No.2018/1995. It is contended that the said miscellaneous petition has been instituted with the intention of delaying and obstructing the implementation of the decree. The miscellaneous petition, instituted in the year 2011, has remained pending for nearly 16 years without consideration. In the meanwhile, the Trial Court, by the impugned order, has deferred further proceedings in FDP No.113/2010.

2.2 It is contended that the mere pendency of Misc. No.781/2011, in the absence of any order staying the operation of the judgment and decree passed in O.S. No.2018/1995, cannot constitute a valid ground for deferring further proceedings in FDP No.113/2010.

3. Heard the learned counsel appearing for the petitioner and perused the material on record.

4. Having regard to the limited nature of the controversy involved in this petition, this Court is of the view that notice to the respondents can be dispensed with.

5. The limited issue that arises for consideration in this petition is whether the mere pendency of Misc. No.781/2011, filed seeking to set aside the judgment and decree passed in O.S. No.2018/1995, would justify deferring the proceedings in FDP No.113/2010.

6. O.S. No.2018/1995 came to be decreed on 28.02.2007, dissolving the partnership and directing division and separate possession of the respective shares in the suit schedule property by metes and bounds. To give effect to the said decree, FDP No.113/2010 came to be instituted.

7. Misc. No.781/2011 was filed seeking to set aside the judgment and decree passed in O.S. No.2018/1995. Though the said miscellaneous petition was instituted in the year 2011, it has remained pending for nearly 16 years. This Court finds no justifiable reason for such prolonged pendency of Misc. No.781/2011.

8. In the absence of any order staying the operation of the judgment and decree passed in O.S. No.2018/1995, the mere pendency of Misc. No.781/2011 cannot, by itself, constitute a

ground to defer the proceedings for drawing up of the final decree in FDP No.113/2010.

9. No doubt, the outcome of Misc. No.781/2011 would have a bearing on the judgment and decree passed in O.S. No.2018/1995. However, the proceedings in FDP No.113/2010 cannot be kept in abeyance indefinitely, awaiting the outcome of Misc. No.781/2011. While awaiting the outcome of the miscellaneous proceedings for a reasonable period may be justified, a period of nearly 16 years cannot, by any stretch of imagination, be considered reasonable.

10. The conduct of the applicant in Misc. No.781/2011, who does not appear to have diligently pursued the said proceedings, also warrants consideration. If the proceedings in FDP No.113/2010 are deferred indefinitely, awaiting the outcome of Misc. No.781/2011, the very purpose of the decree passed in O.S. No.2018/1995 would stand defeated.

11. In that view of the matter, this Court finds no justification for the impugned order passed by the Trial Court.

12. Accordingly, the Trial Court is directed to conclude the proceedings in FDP No.113/2010 within an outer limit of six months from the date of receipt of a copy of this order.

The petition is accordingly ***disposed of***.

Sd/-
(K. V. ARAVIND)
JUDGE

VN
List No.: 1 Sl No.: 3