HC-KAR

NC: 2026:KHC:61498
WP No. 33821 of 2026

CNR: KAHC010744502026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 33821 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. SRINIVASA REDDY
S/O VARADAPPA,
AGED ABOUT 66 YEARS,
RESIDENT OF KALLUR VILLAGE,
KASABA HOBLI, SRINIVASPURA TALUK,
KOLAR DISTRICT, KARNATAKA.

...PETITIONER

(BY SRI P. S. BABU NARAYANA, ADVOCATE)

AND:

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

1. THE KARNATAKA THEOSOPHICAL FEDERATION
A FEDERATION REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT,
HAVING ITS REGISTERED OFFICE AT
NO. 90, SRI KRISHNA RAJENDRA ROAD,
BENGALURU 560 004,
REPRESENTED BY ITS SECRETARY.

...RESPONDENT

(BY SRI UMESH B.N., ADVOCATE FOR C/R)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 17-10-2026 PASSED ON I.A. NO.11 IN O.S. NO. 270/2014 BY THE LEARNED I ADDITIONAL CIVIL JUDGE AND JMFC, SRINIVASPURA, PRODUCED AS ANNEXURE-G, IN

CNR: KAHC010744502026

EXERCISE OF SUPERVISORY JURISDICTION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

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 17.10.2026 passed on I.A. No.11, whereby the application filed under Order XXVI Rule 9 of the CPC has been allowed.

2. Learned counsel appearing for the petitioner submits that the suit is one for specific performance and that the only relief that could be granted therein is a direction to execute the sale deed. It is contended that, for the said purpose, appointment of a Court Commissioner to examine the features of the building is wholly unnecessary. It is further submitted that appointment of a Court Commissioner for the purpose of collecting evidence is impermissible in law.

3. Per contra, learned counsel appearing for the respondent-caveator submits that, having regard to the nature of the dispute and the facts and circumstances of the case, the Trial

Court is justified in appointing a Court Commissioner to ascertain the existing features of the building, both internal and external.

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

5. The suit is one for specific performance. It is pleaded that the suit schedule property was purchased by the plaintiff-Society in the name of the petitioner herein, having regard to the prohibition operating against the plaintiff-Society from purchasing the property in its own name. It is further pleaded that, thereafter, a building was constructed on the property and the same is being used for the spiritual activities of the Society. It is also pleaded that the petitioner acted as an office-bearer of the said Society and that, as on date, the property in question continues to be used for such activities.

6. It is evident from the records that, thereafter, an agreement of sale was entered into with a view to formally transfer the property in favour of the plaintiff-Society.

However, the petitioner has refused to execute the sale deed in terms of the agreement.

7. It is not in dispute that, ordinarily, appointment of a Court Commissioner may not be necessary in a suit for specific performance. However, the necessity for such appointment would depend upon the facts and circumstances of each case. In the present case, having regard to the specific pleadings that the property in question was purchased in the name of the petitioner by the plaintiff-Society, that a building was subsequently constructed thereon and that the same is being used for the spiritual activities of the Society, ascertainment of the existing features and use of the property through a Court Commissioner would be relevant and necessary.

8. Whether the suit schedule property is being used by the plaintiff-Society for the activities pleaded is a question of fact, and the report of the Court Commissioner would assist the Trial Court in effectively adjudicating the dispute.

9. Moreover, the appointment of the Court Commissioner was ordered after completion of the evidence. In the facts and

circumstances of the case, such appointment cannot be construed as an attempt to collect evidence on behalf of either of the parties. The report of the Court Commissioner would assist the Trial Court in the adjudication of the dispute and may also avoid multiplicity of proceedings.

10. The order passed by the Trial Court is discretionary in nature, and this Court finds that the appointment of the Court Commissioner is warranted for the purpose of effective adjudication and pronouncement of judgment. No error or infirmity is found in the impugned order warranting interference by this Court in exercise of its writ jurisdiction.

Accordingly, the writ petition is ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

VBS
List No.: 2 Sl No.: 10