HC-KAR

NC: 2026:KHC:65808
WP No. 34284 of 2026

CNR: KAHC010753012026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 34284 OF 2026 (GM-CPC)

BETWEEN:

1. SRI SHIVAKUMAR S.,
   S/O LATE.M.SHIVAPPA,
   AGED ABOUT 64 YEARS,
   R/AT HULIMAVU VILLAGE,
   CHIKKAIAHNA CHATHRA HOBLI,
   NANJANGUDU TALUK,
   MYSURU DISTRICT-571302.
   AND ALSO R/AT
   CHIKKAKANYA VILLAGE,
   DODDAKANYA POST,
   JAYAPURA HOBLI,
   MYSURU TALUK,
   MYSURU-571311.

...PETITIONER

Digitally signed by VIJAYA P
Location: High Court of Karnataka

(BY SMT. KEERTHI KRISHNA REDDY, ADVOCATE FOR
SRI RAVISHANKAR S., ADVOCATE)

AND:

1. SRI S GANESHA,
   S/O LATE M SHIVAPPA,
   AGED ABOUT 62 YEARS,
   R/A NO. 52, CHIKKAKANYA VILLAGE,
   DODDAKANYA POST,
   JAYAPURA HOBLI,
   MYSURU TALUK, MYSURU-571311.

2. SMT. RAJAMMA,
W/O MAHADEVAPPA,
D/O LATE M. SHIVAPPA,
AGED ABOUT 58 YEARS,
R/AT NO. 595, HADINARU VILLAGE,
HALKERE BEEDI, CHIKKAIAHNA
CHATHRA HOBLI, NANJANGUDU TALUK,
MYSURU DISTRICT-571302.

3. SMT. NEELAMMA,
W/O LATE NAGARAJU,
D/O LATE.M.SHIVAPPA,
AGED ABOUT 56 YEARS,
R/AT NO. 595, HADINARU VILLAGE,
HALKERE BEEDI, CHIKKAIAHNA
CHATHRA HOBLI, NANJANGUDU TALUK,
MYSURU DISTRICT-571302.

4. SMT.JAGADAMBA,
W/O B.N.NATARAJU,
D/O LATE M. SHIVAPPA,
AGED ABOUT 52 YEARS,
R/AT BENDARAWADI VILLAGE,
KOWLANDE HOBLI, CHAMARAJANAGARA TALUK,
CHAMARAJANAGARA-571312.

5. SMT. HEMAVATHI,
W/O GURUSWAMY,
D/O LATE M.SHIVAPPA,
AGED ABOUT 50 YEARS,
R/A BILUGALI VILLAGE AND POST,
BILIGERE HOBLI, NANJANGUD TALUK,
MYSURU-571129.

6. SRI. S. JAGADISH KUMAR,
S/O LATE M. SHIVAPPA,
AGED ABOUT 45 YEARS,
R/A NO. 48, CHIKKAKANYA VILLAGE,
DODDAKANYA POST, JAYAPURA HOBLI,
MYSURU TALUK, MYSURU-571311.

7. SMT. NAGAMMA @ SHIVANAGAMMA,
W/O B.M. BASAVARAJU,
D/O LATE M.SHIVAPPA,
AGED ABOUT 45 YEARS,
R/AT NO.44, BASAHALLI HUNDI VILLAGE,
VARUNA HOBLI, SOMESHWARAPURA POST,
MYSURU DISTRICT-571311.

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING ANNEXURE-D VIDE ORDER DATED 18-09-2026 ORDERING THE EMERGENT NOTICE I.A.NO.1 AND SUIT SUMMONS TO THE DEFENDANTS I.A FILED UNDER ORDER XXXIX RULE 1 AND 2 R/W SECTION 151 OF C.P.C PASSED BY THE IV ADDL SENIOR CIVIL JUDGE AND J.M.F.C, AT MYSURU, IN O.S. NO.1651 OF 2026.

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 18.09.2026, whereby emergent notice was issued on I.A. No.1 filed under Order XXXIX Rules 1 and 2 of the CPC.

2. Learned counsel appearing for the petitioner submits that the suit is one for partition and separate possession. It is

submitted that, along with the suit, an application under Order XXXIX Rules 1 and 2 of the CPC was filed seeking to restrain the defendants from alienating or creating third-party rights in respect of the suit schedule properties.

2.1 It is contended that the Trial Court, without exercising its discretion to preserve the nature of the suit schedule properties by granting an ex-parte temporary injunction, has merely issued emergent notice on the said application.

2.2 It is further submitted that, taking advantage of the non-grant of an ex-parte temporary injunction, the defendants are attempting to alienate the suit schedule properties and create third-party rights therein. Such alienations or creation of third-party rights, if permitted, would prejudice the rights of the parties in the event of their respective shares being determined and allotted in the suit schedule properties.

2.3 It is further submitted that service of notice on all the defendants is complete and that they are duly represented.

3. Considered the submissions made by learned counsel for the petitioner and perused the material on record.

4. Having regard to the limited nature of interference sought, this Court is inclined to dispense with notice to the respondents.

5. The suit is one for partition, and the defendants are none other than the family members, who claim coparcenary rights in the suit schedule properties. An application under Order XXXIX Rules 1 and 2 of the CPC has been filed seeking to restrain the defendants from alienating the suit schedule properties.

6. In a suit for partition between family members, where no third-party rights are claimed in respect of the suit schedule properties, it is necessary to preserve the nature of the properties and the title thereto pending adjudication of the rights of the parties and determination of their respective shares. Such a measure is necessary to ensure that the decree that may ultimately be passed does not remain incapable of enforcement.

7. In the facts and circumstances of the present case, it would suffice to direct both parties to maintain *status quo* with regard to the title to the suit schedule properties until consideration of I.A. No.1 filed under Order XXXIX Rules 1 and 2 of the CPC. The said application shall also be considered and disposed of within the time stipulated by this Court.

8. In view of the above, the following :

O R D E R

I. The writ petition is ***allowed in part***.

II. Both parties are directed to maintain *status quo* in respect of title of the suit schedule properties until adjudication of the pending application filed under Order XXXIX Rules 1 and 2 of the CPC before the Trial Court. (title)

III. The Trial Court is directed to expedite the hearing and ***dispose of*** the said application within an outer limit of two months from the next date of hearing.

IV. The Trial Court shall consider and adjudicate the pending application independently, without being influenced by any observations made in this order.

Sd/-
(K. V. ARAVIND)
JUDGE

VBS
List No.: 2 Sl No.: 11