HC-KAR

CNR: KAHC010760552026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 34866 OF 2026 (GM-CPC)

BETWEEN:

1. N. KEMPEGOWDA
   S/O LATE NARAYANASWAMY
   AGE ABOUT 70 YEARS
   R/AT WARD NO. 18,
   SHANTHI NAGAR, 1ST C CROSS,
   VIJAYAPURA, DEVANAHALLI TALUK,
   BENGAURU RURAL DISTRICT-562110

...PETITIONER

(BY SRI. K. VISHWANATHA, ADVOCATE)

Digitally signed by VIJAYA P
Location: High Court of Karnataka

AND:

1. SRI H.V. MUNEGOWDA
   S/O LATE HANUMANTHARAYAPPA
   AGED ABOUT 51 YEARS
   R/AT WARD NO. 22,
   VINAYAKA NAGAR, KOLAR ROAD,
   VIJAYAPURA TOWN, DEVANAHALLI TALUK,
   BENGALURU RURAL DISTRICT-562110

...RESPONDENT

(BY SRI.SHIVAPRASAD, ADVOCATE FOR C/R)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 15.10.2026 PRODUCED AS ANNEXURE-A PASSED IN EX. PETITION NO.2/2026 BY THE FIRST ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AT DEVANAHALLI BY ALLOWING THE APPLICATION UNDER ORDER 21 RULE 26 READ WITH SECTION 151 OF CODE OF CIVIL PROCEDURE, 1908(I.A.NO.2) FILED BY THE PETITIONER FOR STAY THE OPERATION OF JUDGEMENT AND DECREE DATED 04-03-23 PASSED IN O.S.199/2020 PRODUCED AS ANNEXURE-E 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 15.10.2026, whereby the application filed under Order XXI Rule 26 of the CPC, seeking stay of execution of the judgment and decree passed in O.S. No.199/2020, which is the subject matter of Execution No.2/2026, came to be rejected.

2. Learned counsel appearing for the petitioner submits that the decree passed in O.S. No.199/2020 has been obtained by collusion and fraud. A separate suit in O.S. No.89/2026 has been instituted seeking a declaration that the judgment and decree passed in O.S. No.199/2020 are fraudulent and not

binding. During the pendency of the said suit, execution proceedings came to be initiated, and the Trial Court proceeded with the execution of the decree.

2.1 It is further submitted that, if the decree is permitted to be executed, the suit in O.S. No.89/2026 would be rendered infructuous.

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

4. The ground urged by the petitioner in seeking a stay of the execution proceedings initiated pursuant to the decree passed in O.S. No.199/2020 is that the said decree was obtained by collusion and fraud.

5. It is not in dispute that the petitioner has not preferred any appeal challenging the judgment and decree passed in O.S. No.199/2020. In the absence of any order staying the enforcement or execution of the decree, the Executing Court is justified in rejecting the application.

6. This Court finds no error or infirmity in the impugned order warranting interference in exercise of its writ jurisdiction.

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

Sd/-
(K. V. ARAVIND)
JUDGE

VBS
List No.: 1 Sl No.: 20