HC-KAR

NC: 2026:KHC:64690
WP No. 35417 of 2026

CNR: KAHC010786052026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 35417 OF 2026 (GM-CPC)

BETWEEN:

1. SMT. PRABHAVATHI,
W/O K. SHANKAR,
AGED ABOUT 58 YEARS,
RESIDING AT NO.11/12,
4TH CROSS, KALAPPA BLOCK,
SRIRAMPURA,
BENGALURU-560021.

2. SMT. GNANESHWARI
W/O TOTAIAH,
AGED ABOUT 56 YEARS,
RESIDING AT 1ST CROSS,
SAHAJANANDANAGARA
DODDABALLAPURA TOWN,
BENGALURU RURAL DISTRICT-561203.

Digitally signed by VIJAYA P
Location: High Court of Karnataka

3. SMT. YASHODA
W/O NARAYANA,
AGED ABOUT 40 YEARS,
PRESENTLY RESIDING AT
NO.25, MASJID ROAD, ROJIPURA,
DODDABALLAPURA TOWN,
BENGALURU RURAL DISTRICT-561203.

4. SMT. SUNANDA
W/O SADASHIVA,
AGED ABOUT 48 YEARS,

5. SMT. DHANALAKSHMI
W/O YUVARAJ,
AGED ABOUT 38 YEARS,
PRESENTLY RESIDING NEXT TO
PREETHAM BAR, MARKET ROAD,
CHIKKAMAGALURU CITY-577101.

…PETITIONERS

(BY SRI A.V. GANGADHARAPPA, ADVOCATE)

AND:

1. ARUNKUMAR
S/O LATE THIMMAIAH,
RESIDING AT 3RD CROSS,
LEFT SIDE OF HASSAN ROAD,
ARSIKERE CITY,
HASSAN DISTRICT-573103.

2. SRINIVASA
S/O LATE THIMMAIAH,
AGED ABOUT 55 YEARS,

3. CHANDRU
S/O LATE THIMMAIAH,
AGED ABOUT 47 YEARS,

4. GANGADHARA
S/O LATE THIMMAIAH,
AGED ABOUT 47 YEARS,

RESPONDENTS No.2 TO 4 ARE
RESIDING AT 3RD CROSS,
PRATHIBHA COLLEGE ROAD,
MARUTHINAGARA, ARSIKERE TOWN,
HASSAN DISTRICT-573103.

5. MOHAMMAD HANIF
S/O T.A. REHMAN,
AGED ABOUT 60 YEARS,
PROPRIETOR, MAJESTIC HOTEL,

B.H. ROAD, ARSIKERE CITY,
HASSAN DISTRICT-573103.

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 25.09.2026 PASSED BY THE COURT OF PRL. CIVIL JUDGE AND JMFC AT ARISIKERE ON IA NO.17 IN OS NO. 356/2011 CERTIFIED COPY OF WHICH IS PRODUCED AS ANNEXURE F AND BE PLEASED TO ALLOW THE APPLICATION IA NO.17 CERTIFIED COPY OF WHICH IS PRODUCED AS ANNEXURE E.

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 25.09.2026, whereby the application filed in I.A. No.17 under Order XXII Rule 4 of the CPC, seeking to bring the applicants on record as the legal representatives of defendant No.2, has been rejected.

2. Learned counsel appearing for the petitioners submits that the suit is one for partition and that the petitioners are

defendant Nos.6 to 10. It is submitted that defendant No.1 died during the pendency of the suit and, subsequently, defendant No.2, the mother, executed a Will in favour of defendant Nos.6 to 10.

2.1 It is contended that the properties which are the subject matter of the partition suit are the self-acquired properties of defendant No.2. In that view of the matter, defendant Nos.5 to 10, being the beneficiaries under the Will, are entitled to be recognised as legal representatives of defendant No.2 so as to claim the benefit under the Will and raise a contention that the properties bequeathed under the Will are not available for partition.

2.2 It is, therefore, contended that the Trial Court committed an error in rejecting the application merely on the ground that the applicants are already on record as parties to the suit as defendant Nos.6 to 10.

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

4. The suit is one for partition. There is no dispute that defendant Nos.6 to 10 are the legal heirs of defendant Nos.1 and 2. The application is filed seeking to recognise defendant Nos.6 to 10 as the legal representatives of defendant No.2, solely on the basis of the Will dated 14.02.2018. It is their contention that the properties which are the subject matter of the Will dated 14.02.2018 are exclusively bequeathed in their favour and, therefore, are not available for partition.

5. To raise such a contention, the applicants need not be brought on record as the legal representatives of defendant No.2, since they are already parties to the suit as defendant Nos.6 to 10. In view of the subsequent development, namely, the execution of the Will dated 14.02.2018, which would take effect upon the death of defendant No.2, the applicants would be entitled to seek amendment of their written statement to raise appropriate pleadings in that regard. Such a remedy is available to them.

6. In the circumstances, the Trial Court is justified in rejecting the application. Except for the observations made above, this petition is not entertained.

Accordingly, the petition stands ***disposed of***.

Sd/-
(K. V. ARAVIND)
JUDGE

VBS
List No.: 2 Sl No.: 11