

KABK010001452026



**IN THE COURT OF PRINCIPAL DISTRICT AND
SESSIONS JUDGE, AT BAGALKOTE**

PRESENT

SRI. MASTER R.K.G.M.M. MAHASWAMIJI,
M.A., LL.M.,
PRINCIPAL DISTRICT & SESSIONS JUDGE,

DATED THIS 4th DAY OF AUGUST, 2026

CIVIL MISC. (**TRANSFER**) PETITION

NO.3/2026

PETITIONER :

1. SRI. **SANTOSH**
S/O DEVENDRAPPA NAYAK,
AGED ABOUT **36** YEARS,
OCCUPATION: AGRICULTURE,
RESIDENT OF CHURCH ROAD,
VAIBHAV NAGAR, BELAGAVI.

REPRESENTED BY
SRI. P.R. PAVATE,
ADVOCATE FOR PETITIONER.

V/s

RESPONDENTS :

1. SMT. **SHANKRAMMA**
W/O ANANDGOUDA GOUDAR,
AGED ABOUT **55** YEARS,
OCCUPATION:HOUSEHOLD WORK

2. SRI. **SANTOSH**
S/O ANANDAGOUDA GOUDAR,
AGED ABOUT **27** YEARS,
OCCUPATION: AGRICULTURE
3. SMT. **SANGEETA**
W/O HANAMANT PATTANASHETTI
AGED ABOUT **25** YEARS,
OCCUPATION: STUDENT,
- 4 **SAVITRI**
D/O ANANDAGOUDA GOUDAR,
AGED ABOUT **23** YEARS,
OCCUPATION: HOUSEHOLD
WORK,
- 5 **TEJASVINI**
D/O ANANDAGOUDA GOUDAR,
AGED ABOUT **21** YEARS,
OCCUPATION: STUDENT,
ALL ARE RESIDENTS OF
KUDALASANGAMA,
HUNAGUND TALUK,
BAGALKOT DISTRICT.
- 6 THE ADDITIONAL SPECIAL LAND
ACQUISITION OFFICER,
U.K.P NAVANAGAR, BAGALKOT.
- 7 THE STATE OF KARNATAKA,
REPRESENTED BY DISTRICT
COMMISSIONER,
ADMINISTRATIVE
BUILDING, NAVANAGAR,
BAGALKOT.
- 8 THE TAHSILDAR,
HUNAGUND,
MINI VIDHANA SOUDHA,
HUNAGUND,

9 THE SENIOR, SUB-REGISTRAR,
HUNAGUND,
MINI VIDHANA SOUDHA,
HUNAGUND.

R-1 TO R-5 – **KEPT ABSENT.**
R-6 TO R-9 - REPRESENTED BY
D.G.P.

*** O R D E R ***

This Civil Miscellaneous (**Transfer**) Petition is filed by the petitioner U/Sec.**24** of Civil Procedure Code., 1908 (*hereinafter referred in short as "CPC" if necessary*) praying for the following **relief/s**:

*(a) That the Hon'ble Court be pleased to withdraw & **transfer** the suit in O.S.No.**159**/2019 which is pending on the file of Prl. Civil Judge & JMFC Court, Hunagund **to** Senior Civil Judge & JMFC Court, Hunagund by directing to club the same and try the same with O.S.No.**145**/2022 pending before Senior Civil Judge & JMFC, Hunagund.*

(b) Such other relief as deemed fit

and proper under the circumstances of the case and cost of the petition may be awarded to the petitioner from the respondents.

2. After service of notice, the respondent Nos.1 to 5 did not appear before the court, hence, it is ordered as **kept absent** and the respondent Nos.6 to 9 have appeared before this court through District Government Pleader who submitted that they have no objection for transfer of the matter as prayed.

3. In view of that, the following POINTS that arise for my consideration and determination in this civil Misc. petition:-

*1. Whether it is just, proper and expedient in the interest of justice to transfer the suit in O.S No.159/2019, which is now pending before the court of Prl. Civil Judge and JMFC Court, Hunagund **to the Court of Senior Civil Judge and J.M.F.C, Court Hunagund** where O.S.No.145/2022 is pending, as prayed?*

2. Whether the petitioner has made out sufficient ground/s to transfer the

said suit as requested?

3. What order?

4. My answer on the aforesaid POINTS are as follows:

POINT NO.1	IN THE AFFIRMATIVE.
POINT NO.2	IN THE AFFIRMATIVE.
POINT NO.3	AS PER FINAL ORDER, FOR THE FOLLOWING:

:: R E A S O N S ::

5. **POINT NOS.1 and 2**:- Since these two points are interlinked with each other, they are taken up together for joint consideration to avoid repetition and for clarity of thought.

6. In support of this civil misc. petition, the learned counsel appearing for the petitioner, has submitted by reiterating the petition averments.

7. **PER CONTRA**, the respondent Nos.6 to 9 have appeared before this court through learned D.G.P. who submitted that they have no objection for transfer of the case.

8. Having heard on both sides and upon perusal of relevant materials on record, I am of the firm opinion that the suit in O.S No.159/2019 pending before the Prl. Civil Judge and J.M.F.C. Court, Hunagund is to be transferred to the court of Senior Civil Judge & J.M.F.C. Court, Hunagund.

9. THE BRIEF FACTS OF THE CASE:-

9.1 The petitioner has filed **O.S.No.159/2019** before Prl. Civil Judge & JMFC, Hunagund for seeking relief of **declaration** of right of petitioner to recover the proportionate land acquisition **compensation** for the land bearing R.S.No.40/2 measuring 8 acres, 2 Guntas to his share to the extent of 4 acres and 12 Guntas towards Eastern portion and consequential relief by issuing direction to the acquiring authority to disburse the amount to the petitioner.

9.2. After issuance of summons, present respondents therein, appeared before that court and filed written statement and said suit is posted for evidence of petitioner.

9.3. Thereafter, the respondent Nos.3 to 5 therein, had filed **suit** in **O.S.No.145/2022** which is pending before the Senior Civil Judge & J.M.F.C, Court, Hunagund seeking for relief of **partition** and separate possession in respect of family properties **including the property purchased by the petitioner.**

9.4. After issuance of summons, present petitioner herein appeared before said court through his counsel and filed his written statement and said suit is also posted for evidence of respondents.

THEREFORE, the above civil Misc. petition is filed praying for above reliefs.

10. GROUND IN THIS CIVIL MISC. PETITION:-

10.1 The **suit properties** in both O.S.No.159/2019 & O.S.No.145/2022 are one and the same.

10.2 The suit in O.S.No.159/2019 is pending before the Prl. Civil Judge & J.M.F.C, Hunagund and same is **required** to be transferred to Senior Civil Judge & J.M.F.C Court

Hunagund.

10.3 To avoid contradictory findings and judgments, both suits are required to be tried together by clubbing the same.

10.4. If contradictory findings are made, then both the petitioner & respondents will be put to loss and there will be **multiplicity of proceedings**.

10.5 The both the cases are pending and if they are clubbed, then it will be **convenient for the court and parties** for leading their evidence.

10.6. No harm or loss will be caused to respondents, if O.S.No.159/2019 is transferred to Senior Civil Judge & J.M.F.C Hunagund.

THEREFORE, it is prayed to transfer the said matter as aforesaid.

11. AT THIS JUNCTURE, it is convenient and fruitful to reproduce the provision of law U/ Sec.**24** of C.P.C. 1908, which reads as under;

**"24: GENERAL POWER OF
TRANSFER AND
WITHDRAWAL:- (1) On the**

application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage –

*1. **transfer any suit**, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or*

*2. **withdraw any suit**, appeal or other proceeding pending in any court subordinate to it, and*

a) try or dispose of the same or;

b) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

c) re-transfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which (is thereafter

to try or dispose of such suit or proceeding) may, subject to any special directions in the case of an order of transfer, either re-try it or proceed from the point at which it was transferred or withdrawn.

(i) xxxx

(ii) xxxx

(iii) *A suit or proceeding may be transferred under this section from a court, which has no jurisdiction to try.*

12. On careful perusal of supra noted provision of law, it is vividly clear that this court can transfer any suit from one court to another competent court within the district, if there are sufficient reasons or at discretion for convenience of parties.

13. It is significant to note that, in this instant case, the learned counsel appearing for petitioner urged that the relief/s prayed in **O.S. No.159/2019** is for declaration of right of petitioner. **Whereas** in O.S No.145/2022 is for **partition** and separate possession in respect of their family properties including the property purchased by the petitioner.

14. It is pertinent to note that the **parties** involved in both suits are also one and the same.

15. It is significant to note it is urged that the suit schedule properties are also one and the same.

16. At this juncture, it is also profitable to cite a ruling in case of **SUBRAMANIAM SWAMY VS. RAMAKRISHNA HEGDE** (AIR 1990 SC 113), wherein Hon'ble Supreme Court has observed as under;

*"The question of expediency would depend on the facts and circumstances of each case but the paramount consideration for the exercise of power must be to meet the ends of justice.... The paramount consideration must be to see that **justice according to law is done**; if for achieving that objective of the transfer of the case is imperative, there should be no hesitation to transfer the case even if it is likely to cause some inconvenience to the plaintiff".*

17. In this regard, it is also profitable to cite another ruling in **SATHYA SHREE V/S. M. KUMARESHAN** reported in 1995(5) KAR.L.J.

540, wherein the Hon'ble **High Court of Karnataka** has observed and **held** as under;

*"Sec.24 of CPC – Transfer of suit – Party challenging order of transfer of suit pending in one court to another court of competent jurisdiction for trial and disposal, has to show that **transfer is likely to cause him prejudice or loss**. Suit pending in one court can be transferred to another court, where another suit by the **same party** on the **same subject matter** is pending in order to avoid conflicting orders"*

*It is further held that "since the subject matter of both suits is one and the same and since the reliefs claimed are also one and the same and it is necessary that both the suits shall be heard by one court to **avoid conflicting decisions** being given if they were to be pending in different courts. It has not been shown how the impugned order is likely to cause injustice or irreparable loss to the revision petitioner".*

18. It is significant to note it is pointed out that, in both suits i.e., in O.S. No.159/2019 and 145/2022, partial/same suit properties are involved. Therefore, it is to be adjudicated by

the same court to avoid conflicting of decisions.

19. It is to be noted that in this case learned counsel for petitioner has filed the following 2 documents:

(1) Certified copy of **plaint** and **order sheet** in O.S.No.**159**/2019 pending before Prl. Senior Civil Judge & J.M.F.C Court, Hunagund.

(2) Certified copy of **plaint** in O.S.No.**145**/2022 pending before Senior Civil Judge & J.M.F.C. Court, Hunagund.

20. It is worthwhile to note that since in both suits I.e., in O.S.No.159/2019 and 145/2022, the suit schedule properties are almost one and same or abutting to each other and parties and issues involved are also similar in one or other way, it is just and fair to transfer the matter in O.S.No.159/2019 from Prl. Civil Judge and JMFC Court, Hunagund to the Court of Senior Civil Judge and J.M.F.C Court, Hunagund where O.S. No.145/2022 is pending, for proper/fair decision.

21. If these two suits are decided by different courts, possibility of conflicting

decisions/judgments cannot be ruled out and it will lead to multiplicity of proceedings. Moreover, as already noted the **respondent Nos.5 to 9 have no objection for transfer of the said suit as prayed.**

22. For the reasons stated above and observations made in the light of supra noted provision of law and authorities and under the facts and circumstances of this case, I came to inevitable conclusion and inclined to hold that, it is just, proper and expedient in the interest of justice to withdraw the suit in O.S.No.**159**/2019 on the file of Prl. Civil Judge and JMFC Court, Hunagund and transfer the same to the Senior Civil Judge and J.M.F.C Court, Hunagund where O.S.**145**/2022 is pending for adjudication. If transfer is effected, no harm or irreparable loss or hardship would be caused to the respondent's side and respondents are also not having any objection for the same. Accordingly, I answer the aforesaid POINT NOs.1 and 2 IN THE **AFFIRMATIVE.**

23. POINT NO.3: - In view of my answer on point Nos.1 and 2 and for, fore going reasons and discussion, I proceed to pass the following:

*** ORDER ***

IN THE RESULT, this Civil Misc. (transfer) Petition filed by the petitioner U/Sec.24 of C.P.C., is hereby ALLOWED.

ii) Consequently, the suit in O.S.No.**159**/2019 which is pending before the Court of Prl. Civil Judge and JMFC, Hunagund is hereby **withdrawn** and **transferred** to the Court of Senior Civil Judge and JMFC, Hunagund, where another matter in O.S.No.145/2022 is pending, for adjudication/disposal according to law.

iii) However, it is open to the judicial discretion of said court to club these two suits to record common evidence if necessary or to try them independently.

iv) Office is hereby directed to send a copy of this order to the concerned courts, for information and compliance.

[Dictated to the Stenographer Grade-III, directly on computer, typed by her, corrected, signed and then pronounced by me in the open court on this the 4th day of August, 2026.]

(MASTER R.K.G.M.M. MAHASWAMIJI)

PRL. DISTRICT AND SESSIONS JUDGE,
BAGALKOT.

SLM*