

KABR210014252018



**IN THE COURT OF II ADDL. SENIOR CIVIL JUDGE AND
JMFC AT ANEKAL**

Dated this the 12th day of August, 2026

PRESENT : SRI. MANJUNATHA M. B.A.(L), LL.B.
II Addl. Senior Civil Judge & JMFC,
Anekal.

Misc.No.74/2018
IN
OS.No.608/2014

Petitioner/s:-

1. Smt. Munilakshmamma
W/o late Rajesh,
aged about 50 years,
2. Smt. Raniyamma
D/o late Rajesh,
aged about 30 years,
3. Sri. Manjunath
S/o late Rajesh,
aged about 27 years,

4. Sri. Muniyappa
S/o late Rajesh,
aged about 24 years,

Petitioners No.1 to 4 are
R/at Bovipalya,
Koothaganahalli village,
Neriga Post, Sarjapura Hobli,
Anekal Taluk,
Bengaluru Urban District.

(Rep. By Sri. M.S.S.K., Advocate)

V/s

DEFENDANT/S:-

1. Smt. Sallapuramma
W/o late Venkataswamy,
aged about 55 years,
2. Smt. Gowramma
W/o Mahendra,
D/o Venkataswamy,
aged about 30 years,
3. Sri. Hanumantha
S/o late Venkataswamy,
aged about 27 years,
4. Sri. Nagaraj
S/o late Venkataswamy,
aged about 24 years,

5. Smt. Rathnamma
W/o late Gangappa,
aged about 51 years,
6. Smt. Padma
D/o late Gangappa,
aged about 29 years,
7. Sri. Nagesh
S/o late Gangappa,
aged about 26 years,

Respondent No.1 to 7 are
R/at Bovipalya,
Koothaganahalli village,
Neriga Post,
Sarjapura Hobli, Anekal Taluk,
Bengaluru Urban District.

8. Sri. M.Munireddy
S/o Muni Reddy @
Muniswamy Reddy,
aged about 47 years,
R/at Mallasandra village,
Thummanapalli Post,
Hosur Taluk, Krishnagiri District,
Tamilnadu.
9. Sri. V.Nagaraj
S/o late Venkataramanappa,
aged about 50 years,
R/at Ittangur village,
Sarjapura Hobli, Anekal Taluk,
Bengaluru Urban District.

10. Sri. B.M.Manjunath
S/o K.Muniyappa,
aged about 44 years,
R/at Balagere village,
Varthur Hobli,
Bengaluru East Taluk,
Bengaluru – 103.
11. M/s Green Stream Promoters
A partnership firm having its place of
business at No.4, 10th Avenue
Ashok Nagar, Chennai – 600 083.

Represented by its partner
M.Kaya Mydeen.

(Exparte)

JUDGMENT

Petition filed by the petitioners under Order IX Rule 13 r/w Sec.151 of CPC, praying to restore OS.No.608/2014, which was dismissed for non-prosecution on 14.11.2017.

2. Petitioners pleaded that they filed suit against defendants for the relief of partition and separate possession, due to personnel inconvenience, ill-health and death of distant relative, they were unable to appear before the court, to prosecute the case. Due to their non-appearance, suit was dismissed for non-prosecution. Suit was dismissed on 14.11.2017, they came

know about dismissal order, on 26.07.2018, soonafter the knowledge, they approached concerned and obtained certified copies and filed this application. Reasons for their non-appearance before the court, are bonafide, hence, prayed to allow the petition and to restore OS.No.608/2014.

3. In spite of service of notice, Respondents remained absent, hence, they were placed exparte.

4. In order to prove the petition averments, petitioner No.2 was examined as PW-1. PW-1 in his examination-in-chief relied on one documents which marked as Ex.P1. Ex.P1 is certified copy of Order Sheet and plaint in OS.No.608/2014.

5. Heard Sri. M.B.K., learned counsel for petitioners and perused materials placed before court.

6. Now, the points arise for consideration are ;

POINTS

- 1) Does, petitioners made out grounds to restore suit in OS.No.608/2014 ?
- 2) What order ?

7. By considering the arguments of learned counsel for petitioners and materials placed before the court, above point is answered as below ;

Point No.1 : In the Affirmative

Point No.2 : As per final order,
for the following;

REASONS

8. **Point No.1:-** Petitioners pleaded that due to their bonafide reasons, they were unable to appear before the court. According to petitioners, their counsel was engaged in another court and they entrusted one of the plaintiff, to take care of proceedings and they were unable to appear before the court, because of death of distant relative. Order sheet discloses that plaintiffs in OS.No.608/2014 failed to take proper steps. Reasons assigned by petitioners to set aside the exparte order are not satisfactory, but question regarding immovable property is involved, if opportunity is not provided, petitioners may suffer loss and injury. By condoning the acts of petitioners, by imposing stringent conditions on petitioners, if application is allowed, then it will meet the justice, hence, **Point answered in the Affirmative.**

9. **Point No.2 :-** For the reasons assigned to Point No.1, resulted in following;

ORDER

Petition filed by the petitioners under Order IX Rule 13 r/w Sec.151 CPC is allowed, with cost of Rs.2,000/-.

Petitioners shall pay cost on the first date of appearance.

Petitioners shall appear before the court and take steps in the suit, on first date of hearing and petitioners shall also take steps against Respondent No.8.

In case of failure on the part of petitioners, to take steps, then suit will be dismissed for non-prosecution, automatically.

Office is directed restore suit in its original number and put up before the court on 01.12.2026.

Parties shall appear before the court on the date said above. In case of failure on the part of plaintiffs, in their absence, suit will be proceeded.

(Dictated to the Stenographer, transcribed by her, transcript corrected and then the same is pronounced by me in the open Court, on **the 12th day of August, 2026**)

(MANJUNATHA M.)

II Addl. Senior Civil Judge & JMFC,
Anekal.

ANNEXURE**List of witnesses examined for Petitioner/s :-**

PW1 : Smt. Raniyamma

List of documents exhibited for Petitioner/s :-

Ex.P1 : C/c of Order Sheet and Plaint
in OS.No.608/2014

List of witnesses examined for the Respondent/s :-

NIL

List of documents exhibited for the Respondent/s :-

NIL

(MANJUNATHA M.)

II Addl. Senior Civil Judge & JMFC,
Anekal.
