

KAMS500003302025



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Present : **Sri. Kamalaksha D., B.A., LL.B.,**
Senior Civil Judge & J.M.F.C.,
Nanjangud.

Dated this the 7th day of March 2026

O.S./100/2025

Plaintiff: Saroja

-V/s-

Defendants: Hemavathi R. and another

I.A. VI

Applicants : Hemavathi and another
.. defendants
(By Sri.K.T.R., Adv.)

-V/s-

Opponent : Saroja
... plaintiff
(By Sri. C.L.B., Adv.)

**ORDER ON I.A.VI FILED UNDER SECTION
151 R/W SECTION 94(e) OF CPC**

The defendants filed this application to pass order to enable the applicant to get transfer of vehicle No.KA-52-C-1732 Bharath Benz Truck i.e., item No.2 of suit schedule property to the name of applicant from her deceased husband Rajashekar in the office of the Road Transport Authority, Mysuru.

2. The defendant No.1 sworn in the affidavit that, the plaintiff has filed the suit against the defendants for the relief of partition and separate possession. The suit schedule property i.e., item No.2 is a truck standing in the name of deceased husband of the applicant i.e., N.B.Rajashekara. Her husband was the registered owner of said vehicle; her husband and family were making a living out of the earnings from the said vehicle. After the death of her husband the said vehicle is stationary. It is pertinent to note that her husband had borrowed amount of Rs.11,00,000/- on the said vehicle from M/s Sri Ram

Finance Company. After the death of her husband the insurance amount was adjusted towards loan amount due. There was a difference of Rs.1,48,500/- towards the loan amount. She has repaid the difference of loan amount by borrowing the said amount from her friends and relatives. Only after paying the difference of loan amount Sri Ram Finance Company has issued no objection certificate for transfer of the said vehicle. The plaintiff through her advocate has filed objection before the Road Transport Authority for transfer of the said vehicle to the name of 1st defendant. The said vehicle is stationary presently near Royal Transport office in the outskirts of Nanjangudu. She has paid the insurance amount of Rs.58,000/- and also road tax of Rs.10,000/-. She has paid these amounts by borrowing money from her friends and relatives. Presently the registration of vehicle is in the name of her husband deceased N.B.Rajashekara. Since the vehicle is not transferred to her name, she cannot move the vehicle on the road. The vehicle is stationary since few months. At present the vehicle requires repair and maintenance to

bring it on the road. If the vehicle is not attended for maintenance the vehicle loses its value, utility. It is an urgent need to attend the vehicle, otherwise the property will be lost. Due to passage of time the value of the property will decrease because of depreciation.

The 1st defendant was the nominee of the vehicle, loan and insurance claim in respect of the vehicle. Since she was nominee, the plaintiff does not have any manner of right, title or interest over the said vehicle. It is very important to note that Sri Ram Finance company has issued no objection certificate for transfer of vehicle into her name. If the vehicle is not attended towards its maintenance and repairs, the value of the vehicle will decrease drastically and the vehicle will become scrap. To save the vehicle from being wasted, it is necessary to get the vehicle transferred as per the procedure contemplated under law. The applicant is the legally wedded wife of deceased N.B.Rajashekara. She had paid the outstanding loan amount, insurance premium and road tax to the Road

Transport Authority. The applicant has got a prima facie case, balance of convenience lies in her favour. If the application is allowed, it will not cause any hardship or injury to the opponent. On other hand, if application is rejected it will cause much hardship and injury to her, which cannot be compensated in terms of money and most important the property will be lost. Hence, this application.

3. Per contra, the plaintiff filed objections stating that the defendants filed false application by which she trying to get the documents of item No.2 lorry in her name. Thereafter she will make attempt to sell the property. It is further explained in the objection that, presently the documents of item No.2 schedule property i.e., lorry are standing in the name of her son N.B.Rajashekar, after his death the plaintiff is also having right of share in it. After the death of husband of the 1st defendant, she making attempt to change the documents of the said lorry to her name, thereby she is trying to sell the said property means

the lorry. If the 1st defendant succeed to get transfer the said documents, she will definitely sell the schedule property. Suppose the defendant sell the vehicle it will definitely cause hardship to the plaintiff, because she needs to implead the subsequent purchaser as party, because item No.2 property is not the absolute property of the deceased husband of the 1st defendant. It is further explained that the defendant No.1 is already let out the lorry for hire and she is getting income from the said lorry. The said lorry is being operated or it is already let out for hire, but the defendant No.1 has suppressed the fact only to get the courtesy of the court. The lorry is not stationary at present. The defendant has to prove the payment of premium amount as well as tax of the lorry by her own in trial. The defendant has not produced any believable piece of document to prove the same. The present application is filed only to get unlawful gain. After the death of husband of the 1st defendant or son of the plaintiff, his amount, ornaments are taken away by the 1st defendant and accumulated amount, thereafter she invested the said

amount in her account. This will be another attempt to get the amount of lorry by selling it. Hence, the plaintiff prays to reject the application.

4. Heard. Perused pleadings and materials placed on record. The points that arise for consideration are:

1. Whether the applicant/ 1st defendant has made out suffice grounds to transfer the documents of the lorry i.e., item No.2 property to her name?

2. What order ?

5. The above points are answered as follows :-

Point No.1 : In the negative

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

REASONS

6. **Point No.1:-** Both the parties are trying to get the documents of item No.2 property i.e., lorry to their respective names. But the 1st defendant brought the application on the said provision to enable her to change

the documents of the lorry in her name saying that item No.2 lorry bearing No.KA-52-C-1732 Bharat Benz was purchased by her husband N.B.Rajashekhar. The plaintiff also in her objections mentioned that the said lorry was purchased by her son N.B.Rajashekhar. Therefore there is no doubt remains to say the person who purchased item No.2 property. So, it is prima-facie proved that N.B.Rajashekhar means the husband of the 1st defendant or son of the plaintiff had purchased the said lorry.

7. Now the 1st defendant filed application for the order of this court thereby enable her to change the documents of the said lorry to her name. It is further explained that, defendant No.1 has paid premium amount and tax amount of the lorry by taking loan from her relatives and friends, but she has not produced any material document as to prove the same. The defendant No.1 has not at all produced any single piece of document to prove that premium amount was to be paid at relevant point of time or there was due of premium amount and tax and that

amount was paid by the defendant No.1. The defendant No.1 has not produced any single proof to say that the said lorry is presently stationary and it is not being operated. The plaintiff says that the 1st defendant has suppressed many material facts, because the 1st defendant already let out the said lorry for hire and she is getting income of the lorry. A detailed trial is definitely required to prove that whether the lorry is being operated or not at present.

8. As rightly submitted by the learned counsel for the plaintiff, if permission is given to the 1st defendant to change the documents of this lorry it will definitely facilitate the 1st defendant, thereby she will try to sell the schedule property i.e., lorry. The nature of the property including the lorry is to be proved in the trial. Suppose item No.2 property means lorry is transferred to another person, definitely the plaintiff needs to implead such person. Order of the court shall not be a reason for another litigation between the same parties. The purpose of trial is to adjudicate the matter effectively, but if

permission is granted to the defendant No.1 to change the documents of the lorry it will definitely create one more litigation between the parties. At present the defendant No.1 has not produced any single piece of document to believe that the defendant is required to get order of transfer of the documents of the lorry. It is not proper to pass such order to transfer the documents of the lorry to her name before ending of litigation. The defendant No.1 has also not produced document like photographs etc., to say that the present lorry is currently parked, but not running. In conclusion it may be said that though the defendant No.1 filed application, but she has not produced any single piece of document to prove the same. Thereby she failed to prove point No.1. Hence, **point No.1** is answered **in the negative**.

9. **Point No.2:-** In view of the findings on the above point, this Court proceeds to pass the following:

ORDER

I.A.VI filed by the applicant/defendant
No.1 under Section 151 r/w Section 94(e) of
C.P.C. is dismissed.

*(Dictated to the stenographer, transcribed by her on computer, revised,
corrected and then pronounced by me in open Court on this the 7th day
of March 2026).*

(Kamalaksha D.)
Senior Civil Judge & J.M.F.C.,
Nanjangud.