

**ITINERARY SITTING AT SENIOR CIVIL JUDGE
HUVINAHADAGALI**

Dated this the 19th day of July 2025

PRESENT

MADHUSUDHANA D.K.
Itinerary Senior Civil Judge
Huvinahadagali

OS No. 46/2023

***Plaintiffs : Sri. Minor Tarun Represented
by Natural Guardian his mother
Sm.t Gouramma and Another***

V/s

Defendants : Smt. Vishalakshi and Another

**ORDERS ON IA NO.4 FILED UNDER ORDER 39 RULE
1 AND 2 READ WITH SECTIONS 94 AND 151 OF CPC**

The Plaintiff No.1 and 2 have filed the IA No.4 dated 20.09.2024 by seeking to restrain the Defendants from filing Application for Compassionate Appointment on the death of Late Sri. Rangappa who was working in the PWD Department in Siraguppa.

2. In support of the IA No.4, the Minor Guardian of the Plaintiffs No.1 and 2 by name Smt. Gowamma has filed her Affidavit by deposing on oath for herself and for her Minor Children the Plaintiffs No.1 and 2. In brief, she has contended that, her husband late Sri. Rangappa was working as a Junior Engineer in the PWD

Department and he had married her on 26.01.2004 by suppressing his Marriage with the Defendant No.1 Smt. Vishalakshi and Plaintiffs No.1 and 2 were born to her through her Late husband. Her husband was died on 12.05.2021 and the Plaintiffs and the Defendants No.1 and 2 are the Legal Representatives and therefore, they are the Joint Family Members of the Late Sri. Rangappa. The Defendant No.1 had already received the Death Benefits payable on the Death of Late Sri. Rangappa and now, the Defendants No.1 and 2 have made an Application to the Government by seeking Compassionate Appointment and therefore, the Plaintiffs have filed their Objections to the said Application. The Plaintiffs have filed the IA No.4 by seeking directions to the Defendants No.4 and 5 to restrain them from giving Appointment to the Defendants No.1 and 2 and therefore, the Plaintiffs have prayed for the Temporary Injunction. The Deponent has contended that, if the above Application is Rejected, the Plaintiffs will be put to irreparable loss and injury and they are having Balance of Convenience in their favor along with a Prima Facie Case.

3. The Defendants No.1 to 3 have filed their Objections to the IA No.4. In brief, they have contended that, the Defendants No.1 and 2 were the Legally Wedded Wife and son of Late Sri. Ranagappa and there was no Marriage between the Mother of the Plaintiffs No.1 and 2 and the Deceased. The Plaintiffs have not furnished any Genealogical Tree to show that, they were related to the Deceased Sri.Rangappa. The Defendants No.1 and 2 have obtained Survival Certificate to show that, they are the Wife and son of Late Sri. Rangappa

and in the Service Records of the Deceased, their names are entered as the Wife and Son. The Plaintiffs have filed this Suit to grab the Money and therefore, the Defendants have prayed for dismissal of the IA No.4.

4. I have heard arguments of the Rival Parties and perused the Material placed on Record.

5. On appreciating the Material placed on Record, the following Points are arisen for my consideration:

POINTS

- 1) Whether the Plaintiffs makes out a prima facie case?**
- 2) Whether the balance of convenience lie in favor of the Plaintiffs?**
- 3) Whether the Plaintiffs would suffer irreparable loss and injury if the Injunction is refused?**
- 4) What Order?**

6. Now, My answers to the above Points are as follows:

ANSWERS

POINT NO.1 : In the Negative

POINT NO.2 : Does not survive for my consideration

POINT NO.3 : Does not survive for my consideration

POINT NO.4 : As per the final order, for the following:

REASONS

7. **POINT NO.1** : I have already narrated the Case of the Plaintiffs and the Defendants at the inception of the above Orders and therefore, to avoid repetition, the same is not reiterated here.

8. The Sworn Affidavit of the Plaintiff No.1 shows that, she is claiming to be the second Wife of Late Sri.Rangappa. The Plaintiff No.1 has also deposed in her Affidavit that, *the Defendants No.1 and 2 have already obtained the Death Benefits payable by the Government on the death of Late Sri. Rangappa.* The Hon'ble Apex Court, in the Case of **Revanasiddappa Vs Mallikarjuna** reported in **(2023) 10 SCC 1**, has laid down that, *the Children born to the second wife were entitled only for the Self Acquired Property of their Parents* in the following words:

The provisions of the HSA 1956 have to be harmonized with the mandate in Section 16(3) of the HMA 1955 which indicates that a child who is conferred with legitimacy under sub-sections (1) and (2) will not be entitled to rights in or to the property of any person other than the parents. The property of the parent, where the parent had an interest in the property of a Joint Hindu family governed under the Mitakshara law has to be ascertained in terms of the Explanation to sub-section (3), as interpreted above.

The Cause Title of the Plaint shows that, the Plaintiffs No.1 and 2 were aged respectively at 15 Year and 11 Years and the Suit was filed in the Year 2023. The Death of the Deceased was stated to have occurred on 12.05.2021. The consideration of the Application for Compassionate Appointment of a Government Employee is the discretion of the Government and the State Government has framed Rules for such Appointments. In the event, if the Court has issued any Injunction Order by restraining the Defendants No.1 to 3 to apply for Compassionate Appointment and by restraining the Defendants No.4 and 5 to consider such Application if any by this Court, the same has got the effect of prolonging the said Appointment to an uncertain Period of time and the Government could not wait for such time. Therefore, in the matter of discretion of the State Government, the Court could not restrain the State Government or the Defendants No.1 and 2 from applying and from considering such Application for Compassionate Appointment. Therefore, the Plaintiffs fail to make out any Prima Facie Case and hence ***the Point No.1 is answered in the Negative.***

9. ***POINT NO.2 and POINT NO. 3*** : The Hon'ble High Court of Karnataka has held in the reported Case in ***ILR 1989 KAR 1701*** in between ***Gowrishankara Swamiglu Vs Siddaganga Mutt*** that, *if the Plaintiff fails to make out a prima facie case then the Court need not discuss on the Points No.2 and 3 in respect of Balance of Convenience and Irreparable Loss and Injury.* Therefore, ***the above two Points does not survive for my consideration.***

10. **POINT NO. 4:** For the above discussion, I proceed to pass the following:

ORDER

The IA No.4 of the Plaintiffs filed under Order 39 Rule 1 and 2 read with Sections 94 and 151 of CPC is hereby dismissed.

Posted for Issues on 16.08.2025.

Sd/-

MADHUSUDHANA D K
Senior Civil Judge & JMFC
Hagaribommanahalli