



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.5038 OF 2020 (GM-CPC)

BETWEEN:

1. SRI. G.GOVINDARAJU,
S/O LATE SRI GOVINDE GOWDA,
AGED ABOUT 57 YEARS,
R/AT KYATHANAHALLI VILLAGE AND POST,
HAMPAPURA HOBLI, H.D.KOTE TALUK,
MYSORE DISTRICT-571114.

...PETITIONER

(BY MS. MANASA R., ADVOCATE FOR
SRI. R.B. SADASIVAPPA, ADVOCATE)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

SRI. M. CHELUVARAJU,
SINCE DECEASED BYHIS LRS.

1. SMT. M. JAYAMMA,
W/O LATE SRI M. CHELUVARAJU,
AGE ABOUT 69 YEARS.
2. SMT. M.C.ROOPA,
D/O LATE SRI M. CHELUVARAJU,
AGE ABOUT 40 YEARS.
3. SMT. M.C.DEEPA,
D/O LATE SRI M. CHELUVARAJU,
AGE ABOUT 38 YEARS.

RESPONDENTS NO.1 TO 3 ARE
R/AT NO.55, DVC EXTENSION,



RAMAKRISHNA NAGAR,
MYSURU-570022.

4. SRI. B. GOVINDARAJU,
S/O LATE SRI. BEERANAHALLI GOVINDAIAH,
AGED ABOUT 55 YEARS,
R/AT KYATHANAHALLI,
HAMPAPURAHALLI, H.D.KOTE TALUK,
MYSURU - 571114.

...RESPONDENTS

(BY SRI. AKARSH KUMAR GOWDA, ADVOCATE FOR R1 TO R3;
NOTICE TO R4 IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
IMPUGNED ORDER DATED 23.01.2020 PASSED BY THE COURT
OF PRINCIPAL-1 CIVIL JUDGE AND JMFC, MYSURU IN EX.CASE
NO.72/2012 VIDE ANNEXURE-A.

THIS PETITION COMING ON FOR ORDERS THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated
23.01.2020 passed in Ex.Case No.72/2012 by the Principal I
Civil Judge and JMFC, Mysore (for short 'Executing Court').

2. Ms. Manasa R., the learned counsel appearing for
Sri R.B. Sadasivappa for the petitioner submits that
respondent Nos.1 to 3 filed a suit for recovery of money
against respondent No.4, which came to be decreed exparte



and based on such decree, Ex.Case No.72/2012 was filed by the decree holders. In the said proceedings, notice was served on the petitioner and hence, the petitioner appeared and filed an application seeking prayer to restrain the decree holders from executing the decree passed in O.S.No.1586/2009 against the petitioner on the ground that the petitioner is Sri G. Govindaraju, S/o late Sri Govinde Gowda and the decree is against Sri B. Govindaraju, S/o late Sri Beeranahalli Govindaiah. However, the Executing Court under the impugned order erroneously rejected the said application without considering the aadhar card, ration card and election identity card produced before it. It is submitted that the Executing Court ought to have conducted an enquiry and then proceeded with the matter and hence, she seeks to allow the petition.

3. Per contra, Sri Akarsh Kumar Gowda, the learned counsel appearing for respondent Nos.1 to 3 decree holders supports the impugned order of the Executing Court and submits that the petitioner and respondent No.4 are one and the same. Despite service of summons in the suit, the



petitioner remained absent and conveniently filed a frivolous application to obstruct the execution of the decree. It is submitted that the petitioner has made similar attempt with regard to the others in the village. Considering the said aspect, he seeks to dismiss the writ petition.

4. I have heard the arguments of the learned counsel for the petitioner, learned counsel for respondent Nos.1 to 3 and meticulously perused the material available on record.

5. The records indicate that respondent Nos.1 to 3 filed O.S.No.1586/2009 in the Court of Principal I Civil Judge at Mysore (for short 'Trial Court'). The said suit came to be decreed on 24.08.2011. In the said suit, Sri B. Govindaraju, S/o late Sri Beeranahalli Govindaiah, aged about 45 years, Kyathanahalli, Hampapura Hobli, H.D.Kote Taluk, Mandya District, was arrayed as a defendant. Admittedly, the suit was decreed ex parte. The plaintiffs in the aforesaid suit i.e., respondent Nos.1 to 3 herein, filed Ex.Case.No.72/2012. In the said proceedings, notice to the defendant to address



referred in the execution petition was sent and the same was received by the petitioner. Thereafter, the petitioner filed an application in the execution proceedings seeking a prayer to restrain the decree holders from executing the decree passed in O.S.No.1586/2009 against the applicant i.e., the petitioner herein, on the ground that the decree is obtained against Sri B. Govindaraju and not against the petitioner. The petitioner verified the suit records and found that a demand pronote was produced and the said pronote was never signed by the petitioner and the said defendant in the suit is a different person and not the petitioner. The Executing Court, under the impugned order dismissed the application on the ground that the present application is nothing but obstructing the proceedings, which would delay the execution of the decree. It is to be noticed that the petitioner herein has made specific averments in paragraph No.2 of the affidavit accompanying the application that his name is Sri G. Govindaraju, S/o late Sri Govinde Gowda and the defendant in the decree is Sri B. Govindaraju, S/o late Sri Beeranahalli Govindaiah. Further, he has deposed that he has verified the



records of the suit and found that the signature in the document and the plaint are not of his. Along with the said application, the petitioner has produced aadhar card, election identity card issued by the Election Commission of India and ration card. These three documents prima-facie shows that the name of the petitioner in these documents is Sri G. Govindaraju, S/o late Sri Govinde Gowda. Admittedly, the decree is in the name of Sri B. Govindaraju, S/o late Sri Beeranahalli Govindaiah. When the petitioner is specifically denying that the decree is not against him, in my considered view, the Executing Court ought to have conducted an enquiry as to whether the petitioner is the person who has been arrayed as a defendant in the suit or not. In the absence of any such enquiry, rejection of the application based on the pleading may not be correct. Hence, I proceed to pass the following:

ORDER.

- (i) The writ petition is allowed.
- (ii) The impugned order dated 23.01.2020 passed in Ex.Case No.72/2012 by the



Principal I Civil Judge and JMFC, Mysore, is set aside.

- (iii) The Executing Court is directed to consider the application filed by the petitioner in accordance with law after providing an opportunity to respondent Nos.1 to 3 i.e., the decree holders to file objections to the said application and thereafter, conduct enquiry and take appropriate decision.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

MD
List No.: 1 Sl No.: 15