



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 25TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.6388/2020 (GM-CPC)

BETWEEN:

1. ERAMMA
AGED ABOUT 85 YEARS
DECEASED REP. BY LR'S.
- 1(a) MADDURAPPA
S/O LATE KAKAPPA AND
LATE EERAMMA
AGED ABOUT 60 YEARS
R/AT. BEGIHALLI, JIGANI HOBLI
BENGALURU-560105.
- 1(b) YALLAMMA
D/O LATE KAKAPPA AND
LATE ERAMMA
W/O KRISHNA
AGED ABOUT 47 YEARS
R/AT. NO.40, 12TH CROSS
BANNERGHATTA ROAD
PILLAGANAHALLI
BENGALURU SOUTH-560083.
- 1(c) VENKATALAKSHMAMMA
D/O LATE KAKAPPA AND
LATE ERAMMA
AGED ABOUT 45 YEARS
R/AT. KOPPA GATE, JIGANI HOBLI
ANEKAL TALUK
BENGALURU URBAN DIST-560105.
- 1(d) YALLAMMA
D/O LATE KAKAPPA AND

Digitally signed
by ARSHIFA
BAHAR KHANAM
Location: HIGH
COURT OF
KARNATAKA



LATE ERAMMA
W/O RAMAPPA
AGED ABOUT 48 YEARS
R/AT. NO.45, AMBEDKAR VEEDHI
JIGANI HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT.

- 1(e) RENUKA
D/O LATE KAKAPPA AND
LATE ERAMMA
AGED ABOUT 42 YEARS
R/AT. KOPPA GATE, JIGANI HOBLI
ANEKAL TALUK
BENGALURU URBAN DISTRICT.

REP. THEIR GPA HOLDER OF LR'S
FROM 1(a) TO (e)
RAMU
S/O THANAPPA
AGED ABOUT 54 YEARS
R/AT. BILEKAHALLI, 5TH CROSS
BEGUR HOBLI, BENNERGHATTA ROAD
BENGALURU-560076.

2. SRI. NAGARAJU @ BANNAPPA
AGED ABOUT 63 YEARS
S/O LATE MARIHUCHAPPA
R/AT NO. NANJAPURA VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BENGLAURU URBAN DISTRICT-562106.
3. SMT. GOWRAMMA
AGED ABOUT 61 YEARS
D/O LATE MARIHUCHAPPA
R/AT ANANTHANAGARA
HUSKUR GATE, ATTIBELE HOBLI
ANEKAL TALUK
BENGALURU URBAN DISTRICT.
4. HOSANNA
AGED ABOUT 59 YEARS



S/O LATE MARIHUCHAPPA
R/AT NO.NANJAPURA VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT - 562106.

5. VEERABHADRAPPA
AGED ABOUT 57 YEARS
S/O LATE MARIHUCHAPPA
R/AT NO.NANJAPURA VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT-562106.
6. SMT. SHANTHAMMA
AGED ABOUT 55 YEARS
D/O LATE MARIHUCHAPPA
R/AT NO.KUMBARANAHALLI VILLAGE
KASABA HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT-562106.

...PETITIONERS

(BY SRI. K. NARASIMHA MURTHY, ADV., FOR
SRI. PRASHANTH M.M. ADV., FOR LR'S OF DECEASED
PETITIONER IN IA 1/2021)

AND:

1. SRI. M.Y. MUNIRAJU
S/O LATE YALLAPPA
R/AT. SIDIHOSKOTE VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT-560105.
2. SMT. AMMAYAMMA
AGED ABOUT 78 YEARS
W/O LATE MUNIVENKATA REDDY
R/AT NO.NANJAPURA VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT-562106.



3. MUNI REDDY
AGED ABOUT 58 YEARS
S/O LATE MUNIVENKATA REDDY
R/AT NO.NANJAPURA VILLAGE
JIGANI HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT-562106.

...RESPONDENTS

(BY SRI. NAGA REDDY V, ADV., FOR R1
NOTICE TO R3 D/W R3 TREATED AS LR'S OF DECEASED R2)

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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE RECORDS, OS.NO.466/2012 PENDING BEFORE SENIOR CIVIL JUDGE AT ANEKAL, BENGALURU RURAL DISTRICT. QUASH THE ORDER DT 01.02.2020 PASSED ON THE APPLICATION FILED U/S 90 OF EVIDENCE ACT IN O.S.NO.466/2012 PENDING BEFORE SENIOR CIVIL JUDGE AT ANEKAL, BENGALURU RURAL DISTRICT IS PRODUCED AS ANNEXURE-A AND ALLOW THE APPLICATION FILED BY PETITIONERS U/S 90 OF EVIDENCE ACT & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

This petition is filed challenging the order dated 01.02.2020 passed in O.S.No.466/2012 by the Senior Civil Judge, Anekal, Bengaluru Rural District (for short, 'the Trial Court').



2. Sri.K.Narasimha Murthy, learned counsel for Sri.Prashanth M.M., learned counsel for the petitioner submits that the petitioner No.1 is the defendant No.1 in a suit filed by the respondent No.1-plaintiff for issuance of probate and in the said suit, the defendant No.1 filed an application under Section 90 of the Indian Evidence Act, 1872 (for short, 'the Evidence Act'), and sought to mark the original deed of usufructuary mortgage dated 01.04.1938 which came to be rejected by the Trial Court solely on the ground that the said document is unregistered. It is submitted that the application filed by the defendant No.1 indicates that the defendant No.1 is in possession of the property in question and to prove the possession, the said document ought to have been accepted as the same would fall within the proviso to Section 49 of the Registration Act, 1908 (for short, 'the Registration Act'). Hence, he seeks to allow the petition.



3. *Per contra*, Sri.Nagareddy V, learned counsel for the respondent No.1-plaintiff supports the impugned order of the Trial Court and the very filing of the application under Section 90 of the Evidence Act is defective as the petitioner is required to produce the said document along with proper application seeking for marking and then can seek for consideration as a 30 year old document. It is submitted that admittedly, the alleged document of usufructuary mortgage is unregistered which is required to be registered under Section 17 of the Registration Act and the Trial Court was fully justified in rejecting the application. Lastly, he submits that the written statement of the petitioner indicates that they are claiming their title based on such instrument and if such an application is allowed and the document is ordered to be accepted and marked in evidence, it would be contrary to Section 49 of the Registration Act. Hence, he seeks to dismiss the petition.



4. At this stage, it is submitted at the Bar that the arguments in the suit is concluded and the matter is posted for judgment. In view of the aforesaid statement and considering the stage of the proceedings before the Trial Court, I am of the considered view that it would not be appropriate to exercise the power under Article 227 of the Constitution of India which is discretionary and equitable. It is open for the petitioner to raise the aforesaid ground in the appeal in the event the Trial Court decrees the suit.

5. With the above observation, the writ petition is disposed of.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 1 Sl No.: 18