



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 10209 OF 2020 (GM-CPC)

BETWEEN:

MR. SHEIK UMMAR
S/O AMEER JAN,
AGED ABOUT 48 YEARS,
R/AT 4TH FLOOR, AMEER MANZIL,
1ST CROSS, NARAYANAPPA GARDEN,
WHITEFIELD, BENGALURU - 560 066.

...PETITIONER

(BY SRI. NITYANAND V. NAIK, ADVOCATE)

AND:

1. SUVARNAMMA
W/O LATE GANGADHARA,
AGED ABOUT 25 YEARS,
R/AT HIREPALYA VILLAGE,
KAIVARA HOBLI, CHINTAMANI TALUK,
CHICKBALLAPUR DISTRICT - 563 128.
2. SRI. MUNIYAPPA
S/O CHIKKAMUNIYAPPA,
AGED 55 YEARS,
3. SMT. NARASAMMA
W/O MUNIYAPPA,
AGED 62 YEARS,



4. SMT. NAGAVENI
D/O MUNIYAPPA,
AGED ABOUT 20 YEARS,

RESPONDENT NO.2, 3, 4 ARE
RESIDENTS OF HIREPALYA VILLAGE,
KAIVARA HOBLI, CHINTAMANI TALUK,
CHICKBALLAPUR DISTRICT - 563 128.

...RESPONDENTS

(BY SRI. M. MADHUSUDAN, ADVOCATE FOR
SRI. V. VISWANATH SETTY, ADVOCATE FOR R1;
SRI. PRAKASH M. PATIL, ADVOCATE FOR R2 TO R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE
ORDER DATED 5.11.2019 VIDE ANNEXURE-A PASSED BY THE
ADDITIONAL CIVIL JUDGE AND JMFC AT CHINTAMANI IN FDP
NO.4/2012 ON THE APPLICATION FILED BY THE PETITIONER
FOR REJECTION OF THE COMMISSION REPORT AND FOR
FURTHER ENQUIRY VIDE ANNEXURE-K AND ETC.,

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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

1. This Court had on 19.01.2026, after hearing the
matter passed the following directions, finding that the
issue of maintainability arises, since the challenge in the



present petition is to a final decree. These directions are set out are below:

"1. The present petition seeks to challenge the order dated 05.11.2019 passed in FDP No.4/2012 by the Addl. Civil Judge and JMFC, Chinthamani (hereinafter referred to as "Impugned Order"). By the Impugned Order, the learned Trial Court has dismissed the Objections filed by the petitioner/respondent No.4 to the Commissioner Report submitted before the learned Trial Court.

2. The facts briefly are that a suit for partition and possession of the suit schedule properties was decreed by the learned Trial Court on 25.04.2009. The learned Trial Court found that the plaintiff and defendants 1 to 3 are entitled to 1/3rd share each as well as separate possession and the petitioner/defendant No.4 was restrained from interfering with the joint possession of the plaintiff/respondent. The preliminary decree was accordingly drawn in the following manner:

"ORDER

The suit of the plaintiff is hereby decreed, subject to following terms:

- i) The plaintiff is entitled to 1/3rd share in the suit schedule property and she is also entitled for separate possession.
- ii) The 4th defendant or any person claiming through or under him are hereby restrained from interfering with the plaintiff's joint possession in any manner, by way of order of Permanent Injunction.
- iii) Draw preliminary decree accordingly."

3. The preliminary decree was challenged by the petitioner/ respondent No.4. However, it is not disputed by the petitioner/respondent No.4 that the challenge to the preliminary decree was dismissed by the Appellate Court.



4. Subsequently, the final decree proceedings was filed by respondents 1 to 3 and the Commissioner Report was also sought for and obtained. Thereafter, the petitioner challenged the final decree proceedings and filed objections to the Commissioner report.

5. By the Impugned Order, the learned Trial Court has dismissed the objections filed by the petitioner/respondent No.4 and directed that final decree be drawn.

6. Learned counsel for the petitioner also does not dispute the fact that the final decree has been challenged by him. Learned counsel for the petitioner however submits that he is the subsequent purchaser and is entitled to a share in the suit schedule property.

7. Learned counsel for respondents submit that preliminary decree has attained finality. He further submits that no independent suit has been filed by the petitioner/respondent No.4 seeking his rights in the suit schedule property. However, learned counsel for the respondent fairly concedes that the petitioner continues to be in possession of the suit schedule property and that the parties are in some settlement talks.

8. Concededly, the remedy of the petitioner does not lie before this Court and to that extent, this petition cannot be maintainable. However, with the view to ensure settlement, the Court is granting the parties one opportunity to resolve their disputes amicably.

9. The parties jointly submit that they will appear before the Bengaluru Mediation Centre on **24.01.2026 at 2:30 pm.**

10. Let the parties be present in person for mediation.

11. List this petition before Court on 18.02.2026."



HC-KAR

2. Thereafter, the parties were referred to the Mediation Center and a final opportunity was granted to the petitioner to make his submissions on 18.02.2026.

3. The learned counsel for the respondent submits that the mediation proceedings were closed, since there were no settlement arrived at between the parties.

4. None appears for the petitioner today. There was no presence for the petitioners on the last date of hearing as well. This Court has already given a *prima-facie* finding that the challenge for the petitioner is not before this Court, since the challenge is to a final decree and appropriate proceedings would have to be filed before the Appellate Court. Given the orders passed by this Court, it is clear that the petitioner is not interested in proceeding with this matter.

5. Learned counsel for the respondent submits that no appeal been filed against the preliminary decree dated 25.04.2009, nor has any appeal been filed against the



final decree dated 05.11.2019 and in any event, in terms of the provisions of Section 96 and 97 of the Code of Civil Procedure 1908, the challenge before this Court cannot be maintained.

6. Both the preliminary decree and the final decree have been placed before the Court. The final decree has been passed on 05.11.2019 affirms the sketch prepared by the Commissioner. The relevant extract of the final decree passed by the learned Trial Court is set out below:

"The Commissioner report submitted in this case is hereby accepted. Accordingly, the Final Decree Proceedings filed by the petitioner is allowed. The objection filed by the 4th respondent is rejected. Draw Final Decree in accordance with the Commissioner report."

The sketch prepared by Commissioner is to be treated as art and parcel of the Final Decree to be drawn in this case.

Draw decree after furnishing stamp paper.
Parties to bear their own cost."

[Emphasis Supplied]

7. The Learned counsel for the respondent submits that in pursuance of the final decree proceedings, the parties have taken possession of their respective shares in the



meantime and thus this petition as such, has become infructuous as well.

8. Given the foregoing discussions, this Court deems it apposite to **dismiss** this petition.

9. The dismissal today, however, will not preclude the petitioner from taking appropriate steps in accordance with law, for redressal of his grievances.

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ
List No.: 2 Sl No.: 10