



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 8999 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. JAGADHEESH,
S/O. LATE CHANNEGOWDA,
AGED ABOUT 31 YEARS,
2. ABHILASH,
S/O. LATE SHIVANNEGOWDA,
AGED ABOUT 32 YEARS

BOTH ARE R/AT HALLADAKOPPALU VILLAGE, BILIKERE
HOBLI, HUNSUR TALUK,
MYSURU DISTRICT-571606.

...PETITIONERS

(BY SRI. RUDRAPPA P., ADVOCATE)

AND:

1. SRI. LOKESH M.,
S/O. LATE MADEGOWDA H.K.,
AGED ABOUT 58 YEARS,
2. SRI. SURESH KUMAR M.,
S/O. LATE MADEGOWDA H.K.,
AGED ABOUT 51 YEARS

RESPONDENTS NO.1 AND 2 ARE
R/AT NEW MARUTHI BADAVANE,
HUNSUR TALUK,
MYSURU DISTRICT - 571606.

3. SMT. NETRAVATHAVI,
S/O. LATE SOMASHEKAR,
AGED ABOUT 55 YEARS,





R/AT NO.452, ARALIKATTE ROAD,
COORGALLI, MYSURU-571606.

4. SRI. HARISH,
S/O. LATE SWAMYGOWDA,
AGED ABOUT 34 YEARS,
5. SRI. NAGEGOWDA,
S/O. LATE THIMMEGOWDA,
AGED ABOUT 66 YEARS,
6. SRI. ARKESHA,
S/O. NAGEGOWDA,
AGED ABOUT 29 YEARS,

R4 TO R6 ARE R/AT HALLADAKOPPALU VILLAGE,
BILIKERE HOBLI, HUNSUR TALUK,
MYSURU DISTRICT – 571606.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI TO QUASH THE ORDER DATED 19/02/2026 IN O.S.NO.191/2024 PASSED BY THE I ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, HUNSUR ON I.A.NO.15 PRODUCED AT ANNEXURE-H AND ETC.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed by defendant Nos. 1 and 2 under Article 227 of the Constitution of India, challenging the order dated 19.02.2026 passed on I.A. No. 15, filed under Order XIV Rule 5 read with Section 151 of the Code of Civil Procedure in O.S.No.191/2024, by the I Additional



Senior Civil Judge and JMFC, Hunsur, whereby the application filed by defendant No. 1 seeking to treat issue No.3 as preliminary issue was dismissed.

2. The plaintiffs have filed a suit in O.S. No. 191/2024 for declaration and permanent injunction. Upon service of summons, the defendants appeared through counsel and filed their written statement. Based on the pleadings of the parties, the trial court has framed the following issues:

"1) Whether the plaintiffs prove that they are the absolute owners in peaceful possession and enjoyment of the suit schedule properties as on the date of suit, as pleaded?

2) Whether the plaintiffs prove the alleged interference by the defendants?

3) Whether the suit is hit by principles of res-judicata and Order 2 Rule 2 of CPC?

4) Whether the plaintiffs are entitled for the relief sought for?

5) What decree or order?"



3. Issue No. 3 relates to *res judicata*. The specific case of the petitioners/defendant Nos.1 and 2 is that the previous suit was filed for partition and allotment of shares, whereas the present suit has been filed for declaration and injunction in relation to the same schedule property. Therefore, according to them, the present suit is hit by *res judicata* and the issue ought to be decided as a preliminary issue.

4. The trial court has rightly held that the earlier suit was for partition and allotment of shares to their fathers, whereas the present suit is for declaration and injunction in respect of the half share allotted to them in the earlier suit. The matter requires evidence from the parties for proper adjudication of the issue. Hence, the said issue cannot be decided as a preliminary issue.

5. Accordingly, the trial Court has rightly rejected the application. There is no error or illegality in the order passed by the trial court.



NC: 2026:KHC:16799
WP No. 8999 of 2026

Accordingly, the writ petition is dismissed.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

CM
List No.: 1 Sl No.: 95