



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

WRIT PETITION NO. 48053 OF 2019 (GM-CPC)

BETWEEN:

SRI. THIMMAIAH
S/O VENKATARAMANAPPA
AGED ABOUT 52 YEARS
R/AT KANASAVADI COLONY
MADARE HOBLI, DODDABALLAPUR
BENGALURU RURAL DISTRICT.

...PETITIONER

(BY SRI RODDA VEERA SHETTY, ADV.)

AND:

1. CHANNAMMA
W/O MUNIYAPPA
MAJOR IN AGE.
2. NANJUNDAPPA
S/O JAVAREGOWDA
MAJOR IN AGE.
3. KRISHNAMMA
W/O NARAYANASWAMY
MAJOR IN AGE.
4. RAMAKRISHNA
FATHER'S NAME NOT
KNOWN TO THE PETITIONERS
MAJOR IN AGE.
5. LAKSHMANA ROA
S/O GIRI ROA
MAJOR IN AGE.



6. R. CHANDRASEKHAR
S/O RUDRAPPA
MAJOR IN AGE.
7. SIDDIAIAH
S/O CHENNAMALLAIAH
MAJOR IN AGE.
8. NAGAPPA
S/O NOT KNOWN
MAJOR IN AGE.
9. THAYAMMA
W/O KUPPASWAMPY
MAJOR IN AGE.
10. A.K. MANI
S/O IYYAPPAN
MAJOR IN AGE.
11. RAMA RAO
S/O GIRI RAO
MAJOR IN AGE.
12. GOWRAMMA
W/O GANGAREVANNA
MAJOR IN AGE.
13. VELLIYAMMA
W/O RADHAKRISHNA
MAJOR IN AGE.
14. JAGADAMBA
W/O LINGADEVARAPPA
MAJOR IN AGE.

ALL ARE RESIDING AT
MANJUNATHNAGAR
RAJAINAGAR
BENGALURU - 560 010.

15. THANGARAJU
S/O PERIYASWAMY
MAJOR IN AGE
R/AT NEAR NAVARANG THEATRE



RAJAJINAGAR
BENGLAURU - 560 010.

16. H.P. RUDRAPPA
S/O NOT KNOWN
MAJOR N AGE
RAJAJINAGAR TEMPLE
PRAKASHNAGAR
RAJAJINAGAR
BENGLAURU - 560 010.
17. GOVINDA SHETTY
S/O NOT KNOWN PERSON
MAJOR IN AGE
R/AT RAJAJINAGAR ENTRANCE
RAJAJINAGAR, BENGLAURU - 560 010.
18. CHENNAVEERADEVARU
S/O SHIVAPPA
MAJOR IN AGE
R/AT III BLOCK
JAYANAGAR
BENGLAURU - 560 010.
19. H.S. SHARADAMMA
W/O MANTHAPPA
MAJOR IN AGE
C/O BASAVARAJAPPA
OPPOSITE TO RAJA RAJESWARINAGAR,
BENGLAURU-560 010.
20. NARAYANASWAMY
S/O MUNISWAMY
MAJOR IN AGE,
R/AT MUNIREDDYPALYA,
RT NAGAR POST,
BENGLAURU-560 032.
21. BASAVARAJAPPA
S/O PUTTABASSAPPA,
MAJOR IN AGE,
R/AT OPPOSITE TO RAJA RAJESWARI
KALYANA MANTAP
RAJAJINAGAR,
BENGLAURU-560 010.



22. SARVAMANGALAMMA
W/O BASAVARAJAPPA
MAJOR IN AGE,
R/O OPPOSITE TO RAJA RAJESWARI,
KALYANA MANTAPA,
RAJAJINAGAR,
BENGLAURU-560 010.
23. NAGARATHNAMMA
W/O NAGENDRA,
MAJOR IN AGE,
R/AT MAHALAKSHMI LAYOUT,
RAJAJINAGAR,
BENGLAURU-560 010.
24. HODAVATTI
S/O NOT KNOWN
MAJOR IN AGE,
R/AT BEERANGI PALYA,
RAJAJINAGAR,
BENGLAURU-560 010.
25. VENKATESH
S/O BYRAPPA
MAJOR IN AGE,
R/AT SIDDARAMA DINNE,
RAJAJINAGAR,
BENGALURU-560 010.

...RESPONDENTS

THIS WP IS FILED UNDER 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF MANDAMUS BY QUASHING THE ORDER DATED 11.04.2019 PASSED IN MISC.NO.331/2009 PASSED IN MISCELLANEOUS NO.331/2009 PASSED BY THE 31ST ADDITIONAL CITY CIVIL JUDGE (CCH-14) AT BENGALURU WHICH IS PRODUCED AND MARKED AGREEMENT FOR SALE ANNDXURE-J BY ALLOWING THE MISCELLANEOUS PETITION AND PERMIT THE PETITIONER TO PROSECUTE THE SUIT BEARING OS NO.2019/1981 ON MERITS.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY



ORAL ORDER

1. Petitioner is the before this Court in this writ petition filed under Article 227 of the Constitution of India with a prayer to quash the order dated 11.04.2019 passed in Miscellaneous No.331/2009 by the Court of XXXI Addl. City Civil Judge (CCH-14), Benglauru, vide Annexure - J.
2. Heard the learned counsel for the parties.
3. OS No.2019/1981 was filed by one Smt.Kambamma and the said suit was dismissed for non-prosecution on 30.11.1984. Miscellaneous No.331/2009 was filed under Order IX Rule 9 of CPC by the petitioner herein claiming to be the grandson of original plaintiff in OS No.2019/1981 for setting aside the order dated 30.11.1984 passed in OS No.2019/1981, dismissing the said suit for non-prosecution. Miscellaneous No.331/2009 was dismissed for non-prosecution on 07.09.2015. Thereafter, order dated 11.04.2019 was passed in Miscellaneous No.331/2009 directing the Registry to send back the case files to the record room. The said order dated 11.04.2019 is questioned by the petitioner in this case.



4. Suit in OS No.2019/1981, which was filed by Smt.Kambamma, who is said to be the grandmother of the petitioner herein was dismissed for non-prosecution on 30.11.1984. After a period of nearly 25 years from the date of dismissal of OS No.2019/1981, petitioner had filed Miscellaneous Petition to set-aside the order of dismissal of the suit for non-prosecution. The inordinate delay of 25 years caused in filing the petition is not at all satisfactorily explained in the memorandum of petition in Miscellaneous No.331/2009. Only explanation offered is that the Advocate appearing for the plaintiff in original suit had informed the parties that the suit was pending. The said explanation offered by the petitioner is difficult to be delivered when the inordinate delay is nearly for about 25 years. Miscellaneous Petition filed by the petitioner was also not diligently prosecuted and therefore, the Trial Court had dismissed the same for non-prosecution on 07.09.2015.

5. Till date, no application is filed to recall the said order nor there is any challenge made to the said order and on the other hand, this petition is filed challenging the order dated 11.04.2019 passed in Miscellaneous No.331/2009 wherein the



Trial Court, taking into consideration that the Miscellaneous Petition was dismissed for non-prosecution on 07.09.2015, had directed the Registry to send back the files relating to the case to the record room. The order dated 11.04.2019 passed in Miscellaneous No.331/2009 passed by XXXI Addl. City Civil Judge (CCH-13), Bengaluru, does not suffer from any infirmity or illegality and prayer made in this petition therefore, cannot be granted. Accordingly, the petition is ***dismissed***.

**Sd/-
(S VISHWAJITH SHETTY)
JUDGE**

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List No.: 1 Sl No.: 31