



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 14030 OF 2023 (LB-RES)

BETWEEN:

SMT. VIJAYA,
W/O. RAMESH SHETTY,
AGED ABOUT 48 YEARS,
R/AT PADU ALEVOORU,
ALEVOORU POST,
UDUPI TALUK AND DISTRICT-576 115.

...PETITIONER

(BY SRI BALAKRISHNA K, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY SECRETARY,
PANCHAYATH RAJ DEPARTMENT,
VIKASA SOUDHA,
BENGALURU-560 001.
2. EXECUTIVE OFFICER,
KAAPU TALUK PANCHAYATH,
KAAPU, UDUPI DISTRICT-576 115.
3. KATAPADI GRAMA PANCHAYATH,
KATAPADI, UDUPI DISTRICT-576 115,
REP. BY ITS PANCHAYATH DEVELOPMENT OFFICER.
4. SMT. DEVAKI SHEDTHI,
W/O. NARAYANA SHETTY,
AGED ABOUT 80 YEARS,
R/AT SUKHA NIVAS,
NEAR NAYANA COMPLEX,
YENAGUDDE VILLAGE,
KATAPADY POST, KAPU TALUK,
UDUPI DISTRICT-576 115.

...RESPONDENTS

(BY SRI BOPPANNA BELLİYAPPA, AGA FOR R-1;





SRI ASHOK N NAYAK, ADVOCATE FOR R-2 & R-3;
R-4 SERVED)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER PASSED BY THE R2 DATED 20/03/2023 IN CASE NO 6/2021-22 VIDE ANNEXURE G ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

1. *Quash the order passed by the 2nd respondent dated 20.03.2023 in case No. 6/2021-22 vide Annexure-G.*
2. *Directing the 3rd respondent to implement the order/notice issued on 09.11.2020 bearing No.Ka.Gra.Pan./Pa.Sam:134/2020-21 Annexure-E.*
3. *Grant any such other relief this Hon'ble court deems fit in the interest of justice and equity."*

2. The petitioner claims that the deed of partition was registered before the Sub-registrar, Udupi on 07.06.1991 in respect of the property of the joint family of Smt.Vanaja Shetty and their family members. Subsequently, Smt.Vanaja Shetty had got



the property converted for non-agriculture purposes and they have executed sale deed in favour of the petitioner on 09.08.2011.

3. Contending that there is a Clause in the partition deed that the shareholders are entitled for use of way as well as water and the benefits thereunder, the petitioner had filing application before respondent No.3-Panchayat Development Officer contending that there is a violation thereof and the license which had been issued by respondent No.3 for putting up construction is in violation of the said condition and had called upon respondent No.3 to cancel the same and direct respondent No.4 who is the other family member putting up construction to provide the said access.
4. Initially, a notice had been issued on 09.11.2020 by the Panchayat Development Officer calling upon respondent No.4 to comply with the partition deed, subsequently endorsement has been issued in terms



of Annexure-G that there is a suit which is pending among the family members and as such no action can be taken on the complaint filed by the petitioner. The suit being one in OS No.590 of 2020 seeking for injunction between the other family members.

5. The submission of learned counsel for the petitioner is that the petitioner not being a party to the said suit nor respondent No.3 being party to the said suit, the said suit or any order passed therein is not binding on either the petitioner or respondent No.3 and as such he submits that the endorsement now issued that there is a suit which is pending in terms vide Annexure-G is not sustainable is required to be quashed.
6. Having perused the paper it is seen that what the petitioner seeks for is to enforce a condition agreed upon between the family members in a partition deed dated 07.06.1991, the petitioner being a



purchaser from one of the allottees under the partition.

7. The right which the petitioner seeks to enforce is in a agreement arrived at between the parties to provide access to the vendor of the petitioner, the said access is not public access nor is it a public road entitling respondent No.3 to take action under public law.
8. If at all, the right that the petitioner is asserting is a private right under the partition deed which cannot be agitated through a public officer.
9. No ground being made out, the petition stands ***dismissed***, reserving liberty to the petitioner to approach the jurisdictional Civil Court to assert and enforce any right under the partition deed.

SD/-
(SURAJ GOVINDARAJ)
JUDGE