

Reserved on : 06.03.2026

Pronounced on : 24.03.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION No. 15858 OF 2025 (GM-CPC)

BETWEEN:

1. RAO BAHADUR B. P. ANNASWAMY
MUDALIAR C.I.E.'S PUBLIC CHARITIES,
A CHARITABLE TRUST HAVING
ITS OFFICE AT No.59,
MOORE ROAD, FRAZER TOWN,
BANGALORE -560005,
REPRESENTED BY ITS SECRETARY,
ASHRITHA A HATTANGADI.

...PETITIONER

(BY SRI PRADYUMNA L NARASIMHA, ADVOCATE AND
SRI MAYANK HEBBAR, ADVOCATE FOR
SRI SUNDARA RAMAN M. V., ADVOCATE)

AND:

1. FAZIULLAH MEKHRI ALIAS FAZAL MEKHRI
AGE UNKNOWN, S/O MR. MEKTHRI
AT No.6, BRIDGE ROAD,
BANGALORE -560001.
2. ENAYETH BROTHERS,
A PARTNERSHIP FIRM
UNDER INDIAN PARTNERSHIP ACT 1882,
HAVING OFFICE AT No.6,
BIRDGE ROAD, BANGALORE -560001,
REPRESENTED BY ITS PARTNER
MR. FAZIULLAH MEKHRI

...RESPONDENTS

(BY SRI MADHUKAR DESHPANDE, ADVOCATE)



THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 24/03/2025 IN OS 1691 OF 2023 BEFORE THE XXXV ADDL. CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU PRODUCED AT ANNEXURE-A.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

Heard Sri Pradyumna L. Narasimha and Sri Mayank Hebbar, learned counsels appearing for Sri M.V. Sundararaman, learned counsel for the petitioner, and Sri Madhukar Deshpande, learned counsel for the respondents.

2. The petitioner herein filed O.S. No.1691/2023 seeking a direction to the defendants to quit and deliver vacant possession of the schedule property. The Trial Court framed issues, and Issue No.8 pertains to the maintainability of the suit filed by the plaintiff, particularly questioning the authority of Dr. B.A. Anantharamu and Mrs. Ashritha A. Hattangaddi to file the suit.

3. The plaintiff filed an application under Order XI Rule 12 of the Code of Civil Procedure, 1908 (for short, 'CPC'), seeking a direction to the defendants to make discovery on oath of the

documents in their possession. The defendants filed their objections. The Trial Court, by order dated 24.03.2025, rejected the application, recording that the defendants have denied the authority of the plaintiffs as well as the existence of the landlord-tenant relationship between them. Therefore, it held that production of the documents cannot be ordered.

3.1 The Trial Court further observed that when a specific issue regarding the capacity of the plaintiff to file the suit is treated as a preliminary issue and evidence is being recorded, unless the authority of the plaintiff to maintain the suit is resolved, production of the documents cannot be directed. Accordingly, the application was rejected.

4. Sri Pradyumna L. Narasimha, learned counsel appearing for the petitioner-Trust/plaintiff, submits that the suit has been instituted with proper authority. It is further submitted that, in view of the objections filed by the respondents/defendants disputing the authority of the plaintiff, the Trial Court has framed an issue regarding the maintainability of the suit and the authority of the plaintiff.

4.1 Learned counsel submits that there were multiple correspondences between the plaintiff and the defendants,

including communications relating to payment of rent. All such communications and the relevant bank statements are in the possession of the defendants. Hence, a direction to make discovery of the said documents was necessary. It is further submitted that discovery of the documents referred to in the application is essential for adjudication of the preliminary issue.

5. *Per contra*, Sri Madhukar Deshpande, learned counsel appearing for the respondents, submits that the Trust is governed by a scheme formulated by the Court. In terms of the said scheme, the authorised representative is required to be appointed by the Court itself. The representatives of the petitioner-Trust have not been appointed by the Court, and therefore, the institution of the suit by them is without authority.

5.1 Learned counsel, relying on the decree in O.S. No.1/1946 confirmed in R.A. No.194/1948-49, submits that the persons representing the petitioner-Trust are not the authorised trustees or representatives of the Trust. It is further submitted that, as per the scheme framed by the Court, any vacancy occurring in the Board of Trustees, in whatever manner, is

required to be filled by appointment made by the Principal Civil Judge.

5.2 It is contended that, in view of the dispute regarding the existence of the landlord-tenant relationship between the plaintiff and the defendants, the Trial Court was justified in rejecting the application.

6. This Court considered the submissions made by learned counsel for both parties and perused the writ petition papers.

7. The petitioner instituted O.S. No.1691/2023 seeking a direction to the defendants to quit and deliver vacant possession of the schedule property and to pay the arrears of rent, along with damages and mesne profits. The defendants filed their written statement denying the authority of Dr. B.A. Anantharamu and Mrs. Ashritha A. Hattangaddi, who claim to act as President and Secretary of the plaintiff-Trust.

7.1 In view of the said objections, the Trial Court framed issues. Issue No.8, which deals with the maintainability of the suit and the authority of Dr. B.A. Anantharamu and Mrs. Arshitha A. Hattangaddi, is framed as follows:

"8. Whether the suit of the plaintiff is maintainable in view of the contentions taken by defendants at para Nos.1 to 8 of written statement regarding authority of Dr. B.A. Anantharamu and Mrs. Arshitha A. Hattangaddi to file this suit?"

7.2 The Trial Court recorded evidence by treating Issue No.8 as a preliminary issue. The plaintiff completed his evidence. When the cross-examination of DW.1 on Issue No.8 was to commence, the present application came to be filed. The Trial Court rejected the application on the ground that the defendants had denied the authority of the representatives of the plaintiff as well as the existence of a landlord-tenant relationship. For the said reasons, the Trial Court rejected the application.

8. This Court finds that the order of the Trial Court is well reasoned and justifiable. While upholding the order of the Trial Court, this Court deems it appropriate to assign additional reasons.

8.1 In the application, a prayer is made seeking discovery on oath of certain documents. The documents are as follows:

- (i) Original rent receipts said to have been issued by the plaintiff to the defendants.
- (ii) Original letters and other correspondences said to have been exchanged between the plaintiff and the defendants.
- (iii) Bank account statement of the defendants showing payment of rents to the plaintiff-Trust.

8.2 The above transactions/correspondences are stated to have taken place between the plaintiff and the defendants. When the plaintiff is a party to the said communications/transactions/payments, the necessity for filing the present application is not explained. In any communication or transaction where the plaintiff is a party at one end, the existence of such documents with the plaintiff would ordinarily be presumed, unless shown otherwise.

8.3 Further, there is a categorical denial regarding the existence of a landlord-tenant relationship between the plaintiff and the defendants. In such circumstances, the very possibility of the existence of the documents forming the subject matter of the application becomes doubtful.

9. In light of the above observations, the present writ petition is devoid of merit. Accordingly, the writ petition stands ***dismissed.***

**Sd/-
(K. V. ARAVIND)
JUDGE**

MV