



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 13668 OF 2020 (GM-CPC)

BETWEEN:

1. SMT SAVITHRAMMA
W/O. LATE. KRISHNEGOWDA,
AGED ABOUT 74 YEARS
2. SRI. N K DHANANJIAH
S/O. LATE. KRISHNEGOWDA,
AGED ABOUT 59 YEARS,

PETITIONERS NO.1 AND 2 ARE
RESIDING AT
NAGATHIHALLI VILLAGE,
BINDIGANAVILE HOBLI,
NAGAMANGALA TALUK - 571 802.

3. SMT. N.K MANJULA
D/O. LATE. KRISHNEGOWDA,
AGED ABOUT 56 YEARS
4. SMT. N.K. ANUSUYA
D/O. LATE KRISHNEGOWDA,
AGED ABOUT 54 YEARS

PETITIONERS NO.3 AND 4 ARE
RESIDING AT
KADASOORU MAVINAKERE VILLAGE,
DABBEGHATTA HOBLI,
NAGAMANGALA - 571 448.

...PETITIONERS

(BY SRI. Y.V.PRAKASH, ADVOCATE FOR
SRI.Y.K NARAYANA SHARMA.,ADVOCATE)



AND:

1. SRI N C NARAYANASWAMY
S/O. LATE. CHIKKEGOWDA,
AGED ABOUT 62 YEARS,

SRI. N.C CHANDRASHEKARA DEAD BY LRS

2. SMT. K R ANUPAMA,
W/O. LATE N.C. CHANDRASHEKARA,
AGED ABOUT 59 YEARS,

3. SRI. GAMBEER
S/O. LATE. N.C CHANDRASHEKARA,
AGED ABOUT 24 YEARS

4. SRI. YASHASH
S/O. LATE. N.C CHANDRASHEKARA,
AGED ABOUT 20 YEARS,

5. SMT. LAKSHMAMMA
W/O. LATE. CHIKKEGOWDA
AGED ABOUT 67 YEARS,

RESPONDENTS NO.1 TO 5 ARE
RESIDING AT NAGATHIHALLI VILLAGE,
BINDIGANAVILE HOBLI,
NAGAMANGALA TALUK - 571 802.

6. SMT. LAKSHMAMMA
W/O. LATE. HUCHATHIMMEGOWDA,
AGED ABOUT 89 YEARS
SINCE DECEASED RESPONDENT NO.7 TO 11
ARE LEGAL REPRESENTATIVES

N.J.RAJEGOWDA DEAD BY LRS

7. SMT. RENUKA,
W/O. LATE. N J RAJEGOWDA,
AGED ABOUT 55 YEARS

8. SRI. N.R SHARATH
S/O. LATE. N J RAJEGOWDA,
AGED ABOUT 35 YEARS



9. SRI. N R SANTHOSH
S/O. LATE. N.J RAJEGOWDA,
AGED ABOUT 33 YEARS
10. SRI. N H SRINIVASA
S/O. LATE. N T HUCHATHIMMEGOWDA
AGED ABOUT 64 YEARS
11. SRI. N H KRISHNAPPAGOWDA
S/O. LATE. N T HUCHATHIMMEGOWDA
AGED ABOUT 49 YEARS
SINCE DECEASED BY LRS
- 11(A) SMT. KALPANA,
W/O LATE N.H.KRISHNAPPAGOWDA
AGED ABOUT 53 YEARS
RESIDING AT NAGATHIHALLI VILLAGE,
BINDIGANAVILE HOBLI
NAGAMANGALA TALUK- 571 802.
- 11(B) SMT. NISARGA,
D/O LATE N.H.KRISHNAPPAGOWDA
W/O SRI PRABHU
AGED ABOUT 30 YEARS
RESIDING AT JAVARANAHALLI VILLAGE,
B.G.POST, BELLUR HOBLI,
NAGAMANGALA TALUK,
MANDYA DISTRICT- 571 802.
- 11(C) MISS.MEGHANA GOWDA
D/O LATE N.H.KRISHNAPPAGOWDA
AGED ABOUT 27 YEARS
RESIDING AT NAGATHIHALLI VILLAGE,
BINDIGANAVILE HOBLI
NAGAMANGALA TALUK- 571 802.
12. SMT. N H NAGARATHNA
W/O. SRI. GUNAVENKATARAMANEGOWDA
AGED ABOUT 49 YEARS,

RESPONDENTS NO.6 TO 12 ARE
RESIDING AT
AGRAHARA VILLAGE,



BINDIGANAVILE HOBLI,
NAGAMANGALA TALUK 571802

...RESPONDENTS

(BY SRI. SHANTHI BHUSHAN H.,ADVOCATE FOR R-1,R-2 AND R-5,
SRI.GIRISH B BADADARE, ADVOCATE FOR R-7 TO R-10 AND
R-12,
(R-3,R-4,R-11(A) TO R11(C) ARE SERVED AND
UNREPRESENTED),
R-7 TO R-11 ARE LRS OF DECEASED R-6,
VIDE ORDER DATED 04.01.2024.)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER
DTD.9.12.2019 PASSED IN EX NO.13/2006 BY THE COURT OF THE
ADDITIONAL CIVIL JUDGE AND JMFC AT NAGAMANGALA AS PER
ANNEXURE-F IN SO FAR AS THE THESE PETITIONERS ARE
CONCERNED.

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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

1. The present petition seeks to challenge the order dated 09.12.2019, passed in Execution Petition No.13/2006 (hereinafter referred to as 'Impugned Order'). By the Impugned Order, the petitioners/Judgment Debtors 6(a) to (d) have been directed to pay mesne profits to the Decree Holders, along with the other Judgment Debtors.
2. This Court by its order dated 14.12.2020 stayed the execution proceedings. The interim order has continued as



is since then. Learned counsel for respondent Nos.7 to 12 is present. None appears for the remaining respondents despite service. Given the pendency of the interim order, staying the Execution proceedings for the last almost for more than five years, this Court deems it apposite to hear and decide the matter today.

3. The limited issue before this Court is as to whether the petitioners / JD Nos.6(a) to (d) are liable to pay mesne profits in terms of the judgment and decree passed by the learned Trial Court, on 04.04.1987 in O.S.No.64/1982. It is the case of the petitioners that they did not receive any amounts from the proceeds of the suit schedule properties.

4. Learned counsel for the petitioners submits that since the petitioners did not receive any money from the suit schedule property, the petitioners were not liable to pay mesne profits in terms of the impugned judgment.



5. Learned counsel for respondent Nos.7 to 12 (JD No 6(a) to (d)) contends that the petitioners are liable since they are part of a joint family, including the JD / respondent Nos.7 to 12.

6. The brief facts relevant for the purposes of this petition are that a suit for partition and possession of a 1/3rd share in the suit schedule property was filed by the plaintiffs / respondent Nos.1 to 7 against the defendant Nos.1 and 2 (predecessor of respondent Nos.1 to 12). Defendant No.3 who was the mother of the defendant Nos.1 and 2 and the mother of plaintiff No.3 in the suit, demanded their legitimate share in the suit schedule properties. The suit was decreed by the learned Trial Court. After trial, all the parties were present before the learned Trial Court and the learned Trial Court by the Impugned Order held that the plaintiffs (respondent No.1 to 7) were entitled to 1/3rd share in the suit schedule property in the suit schedule item Nos.29(C) and for future mesne profits. The judgment further held that defendant



Nos.1 and 2 are also entitled for 1/3rd share in the above said properties and lastly, it was held that the plaintiffs are entitled for future mesne profits, till they get possession of their 1/3rd share.

6.1 The Impugned Order was challenged by filing an appeal by the defendant Nos.1 and 2 (JD Nos.7 to 12) challenged by the decree in R.A.No.163/2006 (Old RA No.79/1998). The learned Appellate Court dismissed the challenge to the decree with costs and confirmed the decree. The learned Appellate Court also directed that if the appellants do not pay mesne profits, they will be liable to pay interest thereon as well.

6.2 Since the decree was not complied with, an execution petition was filed by the decree holders / respondent Nos.1 to 5 by filing Execution No.13/2006. The objections were filed by the petitioners / judgment debtors to the decree on 05.01.2013. It is these objections that have



been decided by the Impugned Order which was passed, more than six years ago.

7. The learned Trial Court after examining the pleadings before it, has given a finding that there is no challenge to the Impugned Order or decree filed separately by the petitioners. It is further being held that the judgment and decree has reached finality and it is only thereafter that these execution proceeding has been filed. It is further held that although they have stated that they have not received any benefits, it is not disputed that the father of JD Nos.6(a) to (d) / petitioners herein were the defendant No.2 in O.S.No.64/1982.

8. The relevant extract of the Impugned Order and is set out below:

"21. The Judgment Debtor No.6(a) to (d) have taken specific contention that, they are not responsible to pay 50% of mesne profits to the Judgment Debtors as they could not have received any benefits from the suit schedule properties till 14.02.1991.

22. It is undisputed fact that the deceased father of the Judgment Debtors no 6 (a) to (d) is the defendant no 2 in Os no.64/1982 and JDR no. 6(a)



to (d) are respondents/defendants in FDP no.1/1992. It is admitted fact neither deceased father of JDR no 6(a) to (d) nor JDR no.6 (a) to (d), have challenged the Judgment and decree passed in OS no 64/1982 and order passed In FDP no.1/1992. Unless challenged the judgment and decree passed in OS no 64/1982 and order passed in FDP no.1/1992 by the JDR no 6(a) to (d), they would not take any contention or defense before this court in the execution petition. Moreover, the Judgment and Decree passed in above case and also order passed decree reached finality. As such, in view of judgment and passed in OS no 64/1982 and also order passed in FDPNo.1/1992, the JDR No.6(a) to (d) are responsible to pay the mesne profits to the DHR along with JDR No.1 to 5."

[Emphasis Supplied]

9. Thus, the objections filed by the petitioners have been dismissed.

10. Learned counsel for the petitioners does not dispute that the Impugned Order have not been challenged by them till today. It is a settled law that the Executing Court cannot go behind or beyond a judgment and decree. Given the fact that the suit was contested by all parties including the petitioners and after this contest a judgment was passed, the option available to the petitioners was to challenge this judgment, which has not been done. The relationship between the parties has also not been denied



by the petitioners. Concededly, they all belong to the same 'Joint Hindu Family'.

11. In view of the foregoing reasons, this Court finds no ground to interfere with the Impugned Order. The petition is accordingly dismissed. All pending applications stand closed.

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

JJ
List No.: 2 Sl No.: 6