



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 20826 OF 2023 (GM-CPC)

BETWEEN:

1. A.G. BHARATHRAJ
S/O LATE A.G.GURUMURTHAPPA,
AGED ABOUT 50 YEARS,
R/O ALUR VILLAGE,
HIREKOGALUR POST,
SANTHEBENNUR HOBLI,
CHANNAGIRI TALUK - 577552.

...PETITIONER

(BY SRI. SHRAVAN MADHAV K P., ADVOCATE)

AND:

1. G. SUMA
W/O YOGESHWARAPPA,
D/O LATE A.G.GURUMURTHAPPA,
AGED ABOUT 56 YEARS,
R/O VADNAL VILLAGE, VADNAL POST,
CHANNAGIRI TALUK - 577215.

...RESPONDENT

(BY MISS BABY YADAV.B. FOR
SRI. M.R.HIREMATHAD, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 227 OF THE
CONSTITUTION OF INDIA PRAYING TO-QUASH THE IMPUGNED
ORDER DTD 28/07/2023, PASSED BY SENIOR CIVIL JUDGE
AND JMFC, CHANNAGIRI (AT ANNEXURE-F) AND ALLOW THE
I.A. NO. 10/2023 FILED BY THE PETITIONER UNDER ORDER





XVI RULE 1 AND 2 R/W SEC 151 OF THE CPC, 1908 IN O.S.NO.52/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, CHANNAGIRI AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

This petition by the defendant in O.S.No.52/2018 is directed against the impugned order dated 28.07.2023, whereby the application-I.A.No.10 filed by the petitioner/defendant was partly allowed by permitting the petitioner to examine witnesses No.2, 3, 6 and 7 out of the list of witnesses and declining to grant permission in favour of the petitioner to examine witnesses No.1, 4, 5 and 8 as sought for by the petitioner.

2. Heard learned counsel for the petitioner and learned counsel for the respondent and perused the material on record.

3. A perusal of the material on record will indicate that the respondent/plaintiff instituted the aforesaid suit against the petitioner/defendant for partition and separate possession of her alleged share in the suit schedule properties and for other



reliefs. The said suit is being contested by the petitioner/defendant. During the pendency of the suit, the petitioner/defendant filed the instant application-I.A.No.10 seeking permission to examine eight witnesses as enumerated in the list of witness as hereunder:

"LIST OF WITNESSES FILED ON BEHALF OF THE
DEFENDANT:-

1. *S.R.Nagaraja S/o Rudrappa,
Aged about 52 years, Agriculturist,
R/o Aluru Village, Channagiri Taluk,
Davanagere Dist.*
2. *Sri. Prasanna E.B. S/o Basappa.E.
Aged about 51 years, Agriculturist,
R/o Navilehalu Village, Channagiri Taluk,
Davanagere Dist.*
3. *Sri. V.S.Sadashivappa S/o V.H.Eshwarappa,
Aged about 72 years, Agriculturist,
R/o Vaddanalu Village, Channagiri Taluk,
Davanagere Dist.*
4. *Sri. G.N.Karibasappa S/o G.S.Neelakantappa
Aged about 58 years, Agriculturist,
R/o Aluru Village, Channagiri Taluk,
Davanagere Dist.*
5. *Sri. G.S.Jayaprakash S/o Shivalingappa
Aged about 58 years, Agriculturist,
R/o Aluru Village, Channagiri Taluk,
Davanagere Dist.*
6. *Sri. M.S.Maheshwaraiah S/o M.Siddaiah.
Aged about 73 years, Merchant,*



R/o APMC, Davanagere, Davanagere Dist.

7. *Sri. M.S.Suresh S/o Somashekharaiiah,
Aged about 48 years, Merchant,
R/o APMC, Davanagere, Davanagere Dist.*
8. *Assistant Executive Engineer,
Bhadra Channel. No.3, Tyavanige,
Channagiri Taluk, Davanagere Dist."*

4. The said application having been opposed by the respondent/plaintiff, the trial Court partly allowed the said application by permitting the petitioner to examine witnesses No.2, 3, 6 and 7 and declining to grant permission to examine witnesses No.1, 4, 5 and 8 referred to supra. Aggrieved by the impugned order passed by the trial Court declining to permit the petitioner to examine witnesses No.1, 4, 5 and 8, the petitioner is before this Court by way of the present petition.

5. It is a matter of record that the impugned order insofar as it pertains to allowing the petitioner to examine witnesses No.2, 3, 6 and 7 has not been challenged by the respondent and the said impugned order has attained finality to the said extent.

6. Learned counsel for the respondent has filed a memo submitting that she has no objection for the present



petition to be allowed and permission to be granted in favour of the petitioner/defendant to examine all eight witnesses as enumerated in the list of witnesses referred to supra. The said memo reads as under:

"MEMO FOR PRAYING TO ALLOW THE PETITION WITH DIRECTIONS TO THE TRIAL COURT TO DISPOSE THE SUIT AT EARLIEST.

Advocate for the respondent respectfully submits that-

The petitioner being defendant in partition suit had filed IA No-10/2023 U/o XVI Rule 1 and 2 of CPC to examine 8 witnesses, the learned judge of the trial court was pleased to allow in part by permitting to examine 4 witnesses, said order is under challenge in this petition by the petitioner.

It is further submitted that, to avoid the delay in suit proceedings, this Hon'ble court may kindly be pleased to allow the above petition by permitting the petitioner/defendant to examine his 8 witnesses also prayed directions to the trial court to dispose the suit at earliest in the interest of justice and equity."

7. In view of the aforesaid facts and circumstances and the memo filed on behalf of the respondent that the respondent does not have any objections for the petitioner to examine all eight witnesses as enumerated in the list of witnesses referred to supra, I deem it just and appropriate to set aside the impugned order insofar as it relates to



declining/refusing to grant permission in favour of the petitioner to examine witnesses No.1, 4, 5 and 8 and consequently fully allow I.A.No.10 in its entirety and by issuing certain directions to the trial Court.

8. In the result, the following:

ORDER

- i. Petition is hereby ***allowed***.
- ii. Impugned order dated 28.07.2023 passed on I.A.No.10 in O.S.No.52/2018 by Senior Civil Judge and JMFC, Channagiri insofar as it relates to declining to grant permission in favour of the petitioner to examine witnesses No.1, 4, 5 and 8 is hereby set aside.
- iii. Consequently, I.A.No.10 filed by the petitioner is fully allowed in its entirety and the petitioner is permitted to examine all the eight witnesses as enumerated in the list of witnesses referred to supra accompanying I.A.No.10.
- iv. Liberty is reserved in favour of the respondent to cross-examine all the aforesaid eight witnesses and also adduce additional evidence, if she so desires.



- v. The trial Court is directed to dispose of the suit as expeditiously as possible and at any rate within a period of six months from the date of receipt of a copy of this order.
- vi. All rival contentions on all aspects of the matter are kept open and no opinion is expressed on the merits.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE