



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

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

WRIT PETITION NO. 27806 OF 2024 (GM-CPC)

C/W

WRIT PETITION NO. 4252 OF 2024 (GM-CPC)

IN WP No. 27806/2024

BETWEEN:

1. SPECIAL LAND ACQUISITION OFFICER
AND COMPETENT AUTHORITY, KARNATAKA
STATE GOVT.EMPLOYEE ASSOCIATION BUILDING,
CLOCK TOWER, HAMPANKATTA,
MANGALORE – 575 002
2. PROJECT DIRECTOR AND DGM (T),
NATIONAL HIGHWAYS AUTHORITY OF
INDIA, PROJECT IMPLEMENTATION UNIT
DOOR NO.3-29, BETHAL, THARETHOTA,
NEAR PUMPWELL (NH-66),
MANGALORE – 575 005.

...PETITIONERS

(BY SRI. BIDAN CHANDRAN, ADVOCATE FOR
SRI. HANUMANTHA REDDY G., ADVOCATE)

AND:

1. MR M B VIJAYAKUMAR SHETTY
S/O LATE A. RAJEEV SHETTY
AGED ABOUT 61 YEARS,
DOOR NO.3-10-850, "ANAND BHAVAN",
NANTHOOR JUNCTION, POST KULASHEKAR,
MANGALORE, D.K.DISTRICT – 575 005
2. MRS.RENUKA S. SHETTY
D/O LATE A. RAJEEV SHETTY,

Digitally
signed by
CHANDANA
B M

Location:
High Court
of Karnataka



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AGED ABOUT 57 YEARS,
DOOR NO.3-10-850, "ANAND BHAVAN",
NANTHOOR JUNCTION, POST KULASHEKAR,
MANGALORE, D.K. DISTRICT – 575 005

3. THE STATE OF KARNATAKA
REPRESENTED BY DEPUTY COMMISSIONER,
D.K., MANGALORE – 575 001

...RESPONDENTS

(BY SMT. VACHANA N.V., ADVOCATE FOR
SRI. JAGADEESHA K. G., ADVOCATE FOR R1 & R2;
SRI. G. RAMESH NAIK, AGA FOR R3)

THIS W.P. IS FILED UNDER ARTICLES 226 & 227 OF
CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER IN
MA NO. 2 OF 2024 DTD. 13.03.2024 BY THE 1ST ADDL. SR. CIVIL
JUDGE AND CJM, AT MANGALORE, DAKSHINA KANNADA (ANNX-A)
AND ETC.,

IN WP NO. 4252/2024

BETWEEN:

1. SPECIAL LAND ACQUISITION OFFICER
AND COMPETENT AUTHORITY
MANGALORE SUB DIVISION,
D. K. DISTRICT, MANGALORE - 575 001
2. THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
DOORNO 3-29, BETHEL,
THARETHOTA, NEAR PUMPWELL (NH-66)
MANGALORE – 575 005 ,
REPRESENTED BY ITS DGM (TECH)
AND PROJECT DIRECTOR

...PETITIONERS

(BY SRI. BIDAN CHANDRAN, ADVOCATE FOR
SRI. HANUMANTHA REDDY G., ADVOCATE)

AND:

1. MR. M.B. VIJAYAKUMAR SHETTY
S/O LATE A. RAJEEVA SHETTY
AGED ABOUT 61 YEARS,
DOOR NO 3-10-850, "ANAND BHAVAN"



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NANTOOR JUNCTION, POST KULASEKHARA , MANGALORE –
575 005

2. MRS RENUKA S SHETTY
D/O LATE A. RAJEEVA SHETTY
AGED ABOUT 57 YEARS,
DOOR NO 3-10-850, “ANAND BHAVAN”,
NANTOOR JUNCTION, POST KULASEKHARA , MANGALORE –
575 005
3. THE STATE OF KARNATAKA
REPRESENTED BY THE DEPUTY COMMISSIONER,
D .K. DISTRICT, MANGALORE – 575 001

...RESPONDENTS

(BY SMT. VACHANA N.V., ADVOCATE FOR
SRI. RAGHAVENDRA B. S., ADVOCATE FOR R1 & R2)

THIS W.P. IS FILED UNDER ARTICLE 227 OF CONSTITUTION OF INDIA PRAYING TO QUASH ANNEXURE-A IMPUGNED ORDER DTD 18.12.2023 PASSED BY THE HON'BLE COURT OF PRL. CIVIL JUDGE AND JMFC AT MANGALURU, D.K AGAINST IA 5 IN OS NO. 612/2023, REJECTING THE PLAINT AND DISMISSING THE SUIT FILED BEFORE THE TRIAL COURT.

THESE PETITIONS, COMING ON FOR PRELIMINAY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

Both these petitions arise out of a suit in O.S.No.612/2023 pending on the file of the Principal Civil Judge and JMFC, Mangalore, Dakshina Kannada (for short “the Trial Court”). Respondent Nos.1 and 2 are plaintiffs in the said suit, in which the petitioners are arrayed as defendant Nos.2 and 3, while the State of Karnataka is arrayed as defendant No.1.



2. Since common questions of fact and law arises for consideration in both petitions, they are taken up together for final disposal.

3. The said suit was filed by respondent Nos.1 and 2 plaintiffs against the petitioners-defendant Nos.2 and 3 and respondent No.3 - defendant No.1 for declaration, permanent injunction and other reliefs in relation to the suit schedule immovable property and along with the suit, the plaintiffs having filed an application for I.A.No.2 for temporary injunction. The Trial Court passed the impugned order dated 18.11.2023 allowing I.A.No.2 by issuing certain directions as hereunder.

“ORDER

I.A.No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 r/w. Section 151 of CPC is hereby allowed.

By way of order of Temporary Injunction, the defendants, its men, servants, agents, officers or anyone claiming through or under them are hereby restrained from entering the suit schedule land and acquiring/taking forcible possession of the sit schedule lands without following the due procedure of acquisition of further extent than the proposed acquired land in any manner till disposal of the suit.



However, it is made clear that this order does not come in the way of carrying out the project work of the defendants in the acquired land of the plaintiff.

No order as to costs."

4. Aggrieved by the aforesaid order, the petitioners filed an appeal in M.A.No.2/2024, which was dismissed by the First Appellate Court, vide impugned order dated 13.03.2024. Aggrieved by the impugned order passed by the Trial Court on I.A.No.2 and confirmed by the First Appellate Court, petitioners - defendant Nos.2 and 3 are before this Court in W.P.No.27806/2024 filed by them..

5. In the said suit in O.S.No.612/2023, in addition to filing their written statement and objections to I.A.No.2, the petitioners-defendant Nos.2 and 3 also filed an application, I.A.No.5 under Order VII Rule 11 (a) and (d) CPC seeking rejection of plaint. The said application having been opposed by the plaintiffs, the Trial Court proceeded to pass the impugned order dated 18.12.2023 rejecting I.A.No.5 filed by the petitioners-defendant Nos.2 and 3, aggrieved by the impugned order passed on I.A.No.5 by the Trial



Court, the petitioners have preferred connected petition in W.P.No.4252/2024.

6. A perusal of the material on record will indicate that the Trial Court and the First Appellate Court have come to the conclusion that the plaintiffs are in lawful and peaceful possession and enjoyment of the suit schedule property and that the petitioners-defendant Nos.2 and 3 are not entitled to interfere with the plaintiffs' possession and enjoyment of the suit schedule property. When the matter came up before this court on 19.02.2026, the following interim order was passed.

"Heard learned counsel for the petitioners, learned counsel for respondent Nos.1 and 2 and learned AGA for respondent No.3 in part.

Learned counsel for the petitioners, learned counsel for respondent Nos.1 and 2 and learned AGA for respondent No.3 jointly submit that without prejudice to their rights and contentions, they have no objection for the jurisdictional ADLR i.e., the Additional Director of Land Records, Mangalore, Dakshina Kannada District to be appointed as a Court Commissioner to conduct a joint survey/spot inspection in the presence of all parties and to submit a report in this regard by next date of hearing.

In view of the joint submissions made by both sides, I deem it just and appropriate to direct the



jurisdictional ADLR, Mangalore, Dakshina Kannada District to conduct a joint survey/spot inspection of the suit schedule property on 28.02.2026 and to submit a report in this regard by the next date of hearing.

The petitioners, respondent Nos.1 and 2 are directed to be physically present at the suit schedule property at 11.00 a.m. on 28.02.2026 so as to enable the ADLR/Court Commissioner to conduct a joint survey/spot inspection as stated supra.

Liberty is reserved in favour of petitioners as well as respondent Nos.1 and 2 to submit their respective memos of instructions, documents etc., to the Court Commissioner on that day.

The Court Commissioner will conduct joint survey/spot inspection and submit a report to this Court by the next date of hearing.

Re-list on 16.03.2026 at 02.30 p.m.

Learned AGA is directed to communicate this order to ADLR/ Court Commissioner immediately to enable compliance.

Hand delivery of this order is permitted."

7. In pursuance of the said interim order, the ADLR has submitted a report along with sketch, photographs etc., which is recorded by this Court in its order dated 16.03.2026 as hereunder:

"Learned AGA for respondent No.3 submits that pursuant to the order dated 19.02.2026, the ADLR has submitted a report along with the report, sketch, photographs, etc.



Learned counsel for the parties seeks time to examine the aforesaid documents and make submissions on the next date of hearing.

Re-list on 26.03.2026 at 02.30 p.m.”

8. Today, respondent Nos.1 and 2 - plaintiffs have filed their objections to the said report submitted by the ADLR and the said objections and documents produced by respondent Nos.1 and 2 are also placed on record.

9. A perusal of the impugned orders passed by the Trial Court and the First Appellate Court will indicate that reliance is placed upon the Commissioner's Report, which was made available to the Trial Court and the First Appellate Court for the purpose of passing the impugned orders in favour of the plaintiffs against the defendants. However, having regard to the subsequent Commissioner's Report submitted by the ADLR, pursuant to the aforesaid order passed by this Court, though several contentions have been urged by both sides in support of their respective claims, without expressing any opinion on the merits/demerits of the rival contentions and in view of the aforesaid subsequent event that has transpired/occurred during the pendency of the present



petitions and the new/fresh report submitted by the ADLR, I deem it just and appropriate to set aside the impugned orders and remit the matter back to the Trial Court for reconsideration of IA Nos.2 and 5 afresh, in accordance with law, within a stipulated time frame.

10. In the result, I pass the following:

ORDER

- i) W.P.No.27806/2024 is **allowed**.
- ii) The impugned orders dated 18.11.2023 and 13.03.2024 passed in O.S.No.612/2023 and M.A.No.2/2024 by the Trial Court and the First Appellate Court, respectively, on I.A No.2, are hereby set aside.
- iii) W.P.No.4252/2024 is hereby **allowed**.
- iv) The impugned order dated 18.12.2023 passed in O.S.No.612/2023 on I.A.No.5 by the Trial Court is hereby set aside.
- v) The matter is remitted back to the Trial Court for reconsideration of I.A.Nos.2 and 5, afresh, in accordance with law.



- vi) Registry of this Court is directed to transmit the report of the ADLR and accompanying documents as well as the objections filed by the respondent No.1 and 2-plaintiffs to the Commissioner's Report to the Trial Court immediately, to enable the Trial Court to comply with this order.
- vii) The Trial Court is directed to prepone/advance the matter from 18.04.2026 to 06.04.2026.
- viii) Liberty is reserved in favour of both parties to seek preponement of the matter from 18.04.2026 to 06.04.2026.
- ix) The Trial Court shall reconsider I.A.Nos.2 and 5 afresh after taking into account the entire material on record comprising of the pleadings, documents of the parties etc., including the commissioner's report filed earlier and the latest Commissioner's Report of the ADLR as well as objections to the same filed by the parties and dispose of I.A.Nos.2 and 5 afresh, on or before 27.04.2026.



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- x) It is further directed that without prejudice to the rights and contentions of the parties, the petitioners shall not take any precipitative/coercive steps/action in respect of the schedule property, till disposal of I.A.Nos.2 and 5 afresh, as directed in the present order and the Trial Court shall dispose of I.A.Nos.2 and 5, afresh, without being influenced by the findings and observations, if any, recorded in the present order.
- xi) All rival contentions on all aspects of the matter are kept/left open and no opinion is expressed on merits/demerits of the rival contentions.

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