



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 30153 OF 2025 (GM-RES)

BETWEEN:

SHIVAKUMAR B V
S/O SRI VEERABHADRAIAH
AGED ABOUT 48 YEARS,
R/AT NO.95/C5, 2ND FLOOR,
NEAR GANGADHARESHWARA TEMPLE,
JARAGANAHALLI 6TH PHASE,
J P NAGAR,
BENGALURU-560078.

...PETITIONER

(BY SRI. ASHOKA T., ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF REVENUE,
REP BY ITS PRINCIPAL SECRETARY,
VIKAS SOUDHA,
BENGALURU - 560001.
2. THE SPECIAL DEPUTY COMMISSIONER,
BENGALURU URBAN DISTRICT,





KANDAYA BHAVAN,
BENGALURU -560009.

3. THE ASSISTANT COMMISSIONER
BENGALURU SOUTH SUBDIVISION
BENGALURU-560009.
4. SRI VEERABADHRAIAH
S/O LATE EERAIAH
AGED ABOUT 73 YEARS,
R/AT NO.94/C5,
NEAR GANGADHARESHWARA TEMPLE
JARAGANAHALLI 6TH PHASE,
J P NAGAR, BENGALURU-560078.
5. SRI. SRIHDAR B.V.
S/O SRI VEERABADHRAIAH,
AGED ABOUT 48 YEARS,
R/AT NO. 95/C5, 2ND FLOOR,
NEAR GANGADHARESHWARA TEMPLE,
JARAGANAHALLI, 6TH PHASE, J.P. NAGAR,
BENGALURU - 560078.

...RESPONDENTS

(BY SRI.B. RAVINDRANATH., AGA FOR R1 TO R3;
SMT. NAGAVENI G H., ADVOCATE FOR R4 AND R5)

THIS WP IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO-A. ISSUE
A WRIT OF CERTIORARI QUASHING THE ORDER DATED
30.12.2024 PASSED BY THE SPECIAL DEPUTY
COMMISSIONER IN APPEAL NO. MAG(4)(SC) CR-
24/2024-25 VIDE ANNEXURE -A; B. ISSUE A WRIT OF
CERTIORARI QUASHING THE ORDER DATED 09.07



2024 PASSED BY THE ASSISTANT COMMISSIONER IN MSC NO.51/2023 VIDE ANNEXURE-B; C. DIRECT THAT POSSESSION OF THE PETITIONER SHALL NOT BE DISTURBED UNTIL DISPOSAL OF O.S. NO.6060/2024 PENDING BEFORE THE CITY CIVIL COURT, BENGALURU.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

This petition is as against the orders under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [for short, '*the Act*'], and the details of the impugned orders are as follows.

- [i] The order dated 30.12.2024 passed by the Special Deputy Commissioner in Appeal No.MAG(4) (SC) CR:24/2024-25 vide Annexure-A;*
- (ii) The order dated 09.07.2024 passed by the Assistant Commissioner in MSC No.51/2023 vide Annexure-B.*



The jurisdictional Assistant Commissioner has directed the petitioner to handover the vacant possession of the two floors in the property in No.94/6 of Jaraganahalli, Near Prasanna Gangadhareshwara Temple, Bengaluru [*the subject property*] to the fourth respondent [*the petitioner's father*] within fifteen [15] days.

2. The petitioner has carried the Assistant Commissioner's order in an appeal unsuccessfully; the Deputy Commissioner [*the appellate authority*] has dismissed the appeal confirming the Assistant Commissioner's order. This Court need not detain itself on the merits of the appellate authority's order because it is trite that the petitioner could not have availed the appellate remedy under the Act. As such, this Court must decide on the merits of the petitioner's grievance with the Assistant Commissioner's order.



3. Mr. Ashoka T., the learned counsel for the petitioner, and Ms. Nagaveni G.H., the learned counsel for the fourth and fifth respondents, are heard. The petitioner is extended an opportunity to place on record an affidavit to demonstrate his *bona fide*. The circumstances that emerge from the records and the rival submissions are.

[a] The petitioner has filed the original suit in O.S.No.6080/2024 on the file of the XXXI Additional City Civil and Sessions Judge, Bengaluru against his father [*the fourth respondent*] and his brother [*the fifth respondent*] for partition including the subject property.

[b] The suit is pending for consideration, but the petitioner's application for a temporary injunction against the fourth respondent creating third-party interest in the subject property is rejected.



[c] The petitioner has filed first information with the jurisdiction police against the fifth respondent's wife and son that has resulted in charge sheet against them for the offences punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 [*POCSO Act*], Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections 355, 509 and 34 of the Indian Penal Code, 1860 and these accused stand trial.

[d] The petitioner's wife has filed proceedings against the petitioner's father and his brother [*the fourth and fifth respondents*] under the provisions of the Protection of Women from Domestic Violence Act, 2005 and these proceedings are pending in Crl.Misc.No.197/2025.



4. These are confounding circumstances and what confounds more is the fact that the petitioner admits that his father and brother reside in the first floor of the property, that he resides in a portion of the second floor and the entire third floor and that some tenants are also in possession of the subject property. The fourth respondent's case is that he is under constant stress and strain with the petitioner and his family members harassing even the tenants. This Court must also record that the fourth respondent asserts that he has ensured that the petitioner has the advantage of an immovable property with three upper floors constructed in a site measuring 20 x 30 feet in Sy.No.330/2 of Yelachenahalli, Chunchanaghatta Main Road, Near Yellammadevi Temple, Bengaluru.

5. The petitioner has filed an affidavit placing on record that he respects his father and that he undertakes to ensure that his father receives



medicine and food with the father stating that he himself will ensure that some portion of rent generated from the portions occupied by the petitioner will be offered to him. This Court must decide on whether there must be interference with the Assistant Commissioner's order notwithstanding all these formidable circumstances as any intervention to set aside the Assistant Commissioner's order would mean that the son and the father continue to reside in the same property though in different portions with the potential for further proceedings.

6. This Court opines that the circumstances highlighted and the possible further proceedings must be weighed against the object of the Act, which is to ensure that senior citizens/parents spend time in peace and are not exposed to difficulties by *the relatives*. The second respondent's jurisdiction to issue directions to vacate is in this context. In the



circumstances, this Court is not persuaded to opine that there must be interference with the Assistant Commissioner's order except for providing reasonable time to the petitioner to vacate and handover the possession and without prejudice to prosecute the suit or contest the pending proceedings. In fact, this Court clarifies that neither this dismissal nor any observation in this order can have a bearing on the outcome in the pending different proceedings.

ORDER

The petition stands disposed of permitting the petitioner time till 30.05.2026 to vacate and handover the portions of the subject property that are in his possession. If the petitioner does not hand over the possession by 30.05.2026, the jurisdictional police shall intervene and ensure that the first respondent has possession of the property.

Sd/-
(B M SHYAM PRASAD)
JUDGE

SA