



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 25TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE ASHOK S. KINAGI
WRIT PETITION NO. 101990 OF 2026 (GM-CPC)

BETWEEN:

KISHAN @ K. VISHAN S/O PUTTARAMSA,
AGED 85 YEARS, PRESENTLY R/A NO 204-Y,
RAJAJINAGAR, BANGALORE.

...PETITIONER

(BY SRI. DEEPA B T, ADV)

AND:

1. SMT. BASAVVA, W/O MALLAPPA PUJAR,
AGED 75 YEARS, OCC: AGRICULTURIST,
R/AT SALGERI ONI, RANEBENNUR TALUK-581115,
HAVERI DISTRICT-581115.

2. SMT. HONNAVVA, W/O MALLAPPA KICHADI,
AGED 71 YEARS, OCC: AGRICULTURIST,
R/AT MALLIGARA ONI, RANEBENNUR TAL,
HAVERI DISTRICT-581115

3. VIRUPAKSHA, S/O HANUMANTHAPPA BALLARY,
AGED 52 YEARS, OCC: COOLIE,
R/AT DODDAGUBBI, RATTIHALLI TALUK,
HAVERI DISTRICT-581115.

4. NEELAPPA, S/O HANUMANTHAPPA BALLARY,
AGED 52 YEARS, OCC: COOLIE
R/AT YADAGODI, RATTIHALLI TALUK,
HAVERI DISTRICT-581115.

5. CHANDRAPPA, S/O HANUMANTHAPPA BALLARY,
AGED 48 YEARS, OCC: COOLIE,

VIJAYALAKSHMI
M KANKUPPI



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R/AT YADAGODI, RATTIHALLI TALUK,
HAVERI DISTRICT-581115.

6. AKKAMMA, W/O BEERAPPA CHOWDANNAVAR,
AGED 46 YEARS, OCC: COOLIE,
R/AT HAROGOPPA, RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

7. RENUKAVVA, W/O HANUMANTHAPPA BIDARI,
AGED 50 YEARS, OCC: HOUSEHOLD.
R/AT DODDAKALLU KICHADIYAVARA ONI,
KURUBAGERE, RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

8. GANGAVVA, W/O BHIRAPPA MALAGI,
AGED 49 YEARS, OCC: HOUSEHOLD,
R/AT KANAKADASA NAGAR,
RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

9. SHARADA, W/O MANTHESHAPPA ADIGERI,
AGED 44 YRS OCC HOUSEHOLD
R/AT MENASINA HALA, RANEBENNUR TALUK,
HAVERI DIST-581115.

10. SHANTHAMMA TUMBEGERI,
W/O T.S.HANUMANTHAPPA,
AGED 43 YEARS, OCC: HOUSEHOLD,
BULLAPURA, RANEBENNUR TALUK,
HARIHARA, DAVANAGERE DIST-581115.

11. MANGALAVVA,
W/O BASAPPA ANTARAVALLI,
AGED 41 YEARS, OCC: HOUSEHOLD,
MANAKUR, RANEBENUR TALUK,
HAVERI DISTRICT-581115.

12. BHEERAPPA,
S/O SIDDAPPA KACHCHARABI,
AGED 40 YEARS, OCC: AGRICULTURIST,
MATTIKERI ONI, SHIVAJINAGAR, KARUR,
RANEBENNUR TALUK,



HAVERI DISTRICT-581115.

13. NANDA HIREBIDARI, W/O KARIYAPPA,
AGED 36 YEARS, OCC: HOUSEHOLD,
R/AT PLOT, MADLERI, RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

14. CHOLAPPA, S/O MARIYAPPA GOUDAR,
AGED 48 YEARS, OCC: AGRICULTURIST,
R/AT BENACHINA MARADI,
RANEBENNUR TALUK, HAVERI DIST-581115.

15. BHEERAPPA, S/O MARIYAPPA GOUDAR,
AGED 43 YEARS, OCC: AGRICULTURIST,
R/AT BENACHINA MARADI,
RANEBENNUR TALUK,
HAVERI DIST-581115.

16. GUTTEPPA, S/O MARIYAPPA GOUDAR,
AGED 38 YEARS, OCC: AGRICULTURIST,
R/AT BENACHINA MARADI,
RANEBENNUR TALUK,
HAVERI DIST-581115

17. SMT. MARADI BASAVVA,
W/O MANJAPPA MALEBENNUR
AGE. 33 YEARS, OCC. HOUSEWIFE
R/O: RANEBENNUR, TQ. HAVERI
DIST. HAVERI-581115.

18. SMT. BARAMAVVA,
W/O NAGAPPA HEBBAL,
AGED 31 YEARS, OCC: HOUSEHOLD,
KUPPELURU, RANEBENNUR TALUK,
HAVERI DIST-581115.

19. SMT. GUTTEVVA, W/O DILLEPPA IRANI,
AGED 29 YEARS, OCC: HOUSEHOLD,
R/AT KAKOLA, RANEBENNUR TALUK,
HAVERI DIST-581115.

20. MARIYAVVA, W/O NAGAPPA GOUDAR,



AGED 63 YEARS, OCC: HOUSEHOLD,
R/AT KURUBAGERI,
NEAR DURGAMMA TEMPLE,
RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

21. BHEERAPPA, S/O NAGAPPA GOUDAR,
AGED 35 YEARS, OCC: AGRICULTURIST,
R/AT KURUBAGERI,
NEAR DURGAMMA TEMPLE,
RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

22. POORNIMA, W/O BHEERAPPA PUJAR,
AGED 32 YEARS, OCC: HOUSEHOLD,
SALAGERI ONI, R/AT KURUBAGERI,
RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

23 . CHANDRAMMA @ ROOPA,
W/O KALAVEERAPPA JALLERA,
AGED 28 YEARS, OCC: HOUSEHOLD,
R/AT CHIKKA HARALAHALLI,
RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

24. SMT. GUTTEVVA
W/O KARIYAPPA GUDIYAVAR,
AGED 48 YEARS, OCC: AGRICULTURIST,
R/AT MYAGERE ONI, RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

25. RANGAPPA, S/O KOTRAPPA PATEGAR,
AGED 81 YEARS, OCC: BUSINESS,
R/AT VINAYAKANAGAR, NEAR AMBEDKAR
HIGH SCHOOL, RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

26. BASAPPA, S/O BHEERAPPA KICHADI,
AGED 77 YEARS, OCC: AGRICULTURIST,
R/AT NADIGERI ONI, MYAGERI ROAD,
RANEBENNUR TALUK, HAVERI DISTRICT-581115.



27. GANESH, S/O SHIVAPPA
MAILI BASANNANAVAR,
AGED 38 YEARS, OCC: AGRICULTURIST,
R/AT NANDEESHWARA NAGAR,
BENAKANA KONDA ROAD,
RANEBENNUR, HAVERI DIST-581115.

...RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO,

A) ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE
WRIT, ORDER OR DIRECTION QUASHING THE ORDER DATED
04.02.2026 PASSED ON I.A. NO.10 IN FDP NO.12/2018 BY THE
COURT OF THE PRL. CIVIL JUDGE AND JMFC, RANEBENNUR,
PRODUCED AT ANNEXURE-C, AS BEING ILLEGAL, WITHOUT
JURISDICTION, CONTRARY TO THE LAW LAID DOWN BY THE
HON'BLE SUPREME COURT AND VIOLATIVE OF THE PETITIONERS
VESTED RIGHTS.

B) CONSEQUENTLY ISSUE WRIT OF MANDAMUS DIRECTING THE
COURT BELOW TO PROCEED WITH THE FINAL DECREE
PROCEEDINGS, IF AT ALL, STRICTLY IN ACCORDANCE WITH THE
PRELIMINARY DECREES ALREADY GOVERNING THE FILED AND
SUBJECT TO THE RESULT OF RSA NO.100135/2018 ANNEXURE-H
PENDING BEFORE THIS HONBLE COURT.

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



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI)

1. The petitioner has filed this writ petition challenging the order on I.A. No. 10 dated 04.02.2026 passed in FDP No. 12/2018 by the learned Principal Civil Judge and JMFC, Ranebennur.

2. Brief facts, leading rise to the filing of this petition are as follows:

The petitioner purchased the land bearing Survey No.843/A/3 (Old No. 23/1B), measuring 3 acres and 6 guntas, situated at Ranebennur, Haveri District, under a registered sale deed dated 23.06.2001 executed by Mariayappa, Beerappa Gowda, and others, for valuable consideration.

3. The suit was filed in O.S. No.329/2001 seeking a relief of partition and separate possession, in which the property bearing Survey No.843/A/3 (Old No.23/1B) was the subject matter. It was alleged that the said property



had been sold in favor of the petitioner. The said suit was decreed vide judgment dated 15.12.2003.

4. Subsequently, the petitioner filed O.S. No.232/2009 seeking a declaration, *inter alia*, that the decree passed in O.S. No.329/2001 is collusive and not binding on the petitioner's rights, and for protection of the petitioner's title and possession.

5. The suit in O.S. No.232/2009 was decreed by judgment dated 17.03.2015, and the suit was partly decreed. An appeal was preferred in R.A. No.37/2015. The first appellate court modified the judgment and decree of the trial court and held that the alienation in favour of the petitioner is valid and binding to the extent of the 7/18th share of defendant No. 5.

6. The petitioner, being aggrieved by the judgment and preliminary decree passed in O.S. No.232/2009 and R.A. No.37/2015, filed a second appeal in R.S.A. No.100135/2018.



7. In the meanwhile, the respondents initiated final decree proceedings in FDP No.12/2018. In the said proceedings, the respondents filed I.A. No.10 seeking modification of the shares on the ground that, in view of the amendment to Section 6 of the Hindu Succession (Amendment) Act and in the light of law laid down by the *Hon'ble Apex Court* in the case of ***Vineeta Sharma Vs. Rakesh Sharma and Others***¹, the shares awarded by the Court requires to be modified.

8. The said application was opposed by the petitioner by filing objections. The Final Decree Proceedings Court, after hearing the learned counsel for the parties, passed the impugned order modifying the preliminary decree passed in O.S. No.232/2009. Aggrieved by the same, the petitioner has filed this present writ petition.

9. Heard the arguments of the learned counsel for the petitioner.

¹ AIR 2020 SC 3717



10. Learned counsel for the petitioner submits that the judgment and decree passed in O.S. No.329/2001 is the just and proper. She further submits that the trial Court has committed an error in modifying the decree in O.S. No.329/2001.

11. She also submits that the interest of the petitioner is required to be protected and that the trial Court has erred in modifying the shares of the parties. Hence, on these grounds, she prays that the writ petition be allowed.

12. Perused the records, and considered the submissions of learned counsel for the parties.

13. It is an undisputed fact that the suit in O.S. No.329/2001 was filed for the relief of partition and separate possession. The petitioner is the purchaser of the land bearing Survey No.843/A/3 (Old No.23/1B), measuring 3 acres 6 guntas, situated at Ranebennur, Haveri, under a registered sale deed dated 23.06.2001.

14. The suit in O.S. No.329/2001 was decreed by judgment and decree dated 15.12.2003. The petitioner



challenged the said decree by filing O.S. No.232/2009, seeking a declaration that the decree passed in O.S. No.329/2001 is collusive, and not binding on the petitioner, and for protection of the petitioner's title and possession over the suit property.

15. The said suit was partly decreed, and it was held that the decree obtained in O.S. No.329/2001 cannot be upheld to the prejudice of the petitioner in regarding the property already alienated. It was further held that the alienation made by defendant No.5 therein in favour of the petitioner is binding to the extent of the undivided share of defendant No.5. By judgment and decree dated 17.03.2015 the trial Court partly decreed the suit.

16. An appeal was preferred in R.A. No.37/2015, and the first appellate Court modified the judgment and decree of the trial Court.

17. It is contended that the petitioner has preferred a second appeal in R.S.A. No.100135/2018. A specific query was put to the learned counsel for the petitioner regarding



the present status of the said second appeal. It is admitted that the second appeal has been filed; however, there is no interim order granted in the said appeal.

18. In the meantime, the Hon'ble Apex Court, in ***Vineeta Sharma*** (supra), has held that daughters, being coparceners, are entitled to an equal share in the coparcenary property to that of the sons.

19. After the disposal of the said case by the Hon'ble Apex Court, the petitioner filed an application for modification of shares in I.A No.10 before the Trial/FDP Court. The trial Court, upon considering the evidence and material on record, allowed the said application by passing the impugned order and modified the preliminary decree.

20. The Hon'ble Apex Court, in ***Prasanta Kumar Sahoo and Others vs. Charulata Sahoo and Others in Civil Appeal Nos. 2913-2915 of 2018***, decided on ***29.03.2023***, has held in paragraphs 81 and 82 as follows:

"81. We do not find any merit in the submissions canvassed by Mr. Basant, learned Senior counsel



appearing for the appellants that in a partition suit, the preliminary decree cannot be varied in the final decree proceedings, despite the amendment of the law governing the parties.

82. In our opinion, no error not to speak of any error of law could be said to have been committed upon the courts below, while determining the shares of the parties. The only thing that needs to be done now is to give effect to the amendment in the provisions of Section 6 of the 1956 Act and re-determine the shares of the parties accordingly. To put it straightly, the plaintiff is entitled to one third share in all the properties of her late father. the issue whether all the properties were ancestral as raised on behalf of the appellants paid into insignificance."

21. It is a settled legal position that final decree proceedings are in continuation of the preliminary decree proceedings, and there is no executable decree unless a final decree is passed. A final decree does not originate independently but flows from the preliminary decree already passed in a suit determining and declaring the rights and interests of the parties.

22. The final decree is not a decree in execution of a preliminary decree, but a decree in the suit itself. It is the final decree that is to be enforced. Admittedly, in view of



the propositions laid down by the Hon'ble Apex Court in ***Prema vs. Nanje Gowda*** reported in (2011) 6 SCC 462 and ***Prasanta Kumar Sahoo***, supra the trial Court was justified in passing the impugned order.

23. I, therefore, do not find any error in the impugned order. Accordingly, I proceed to pass the following order:

ORDER

- i. The petition is ***dismissed***.
- ii. A liberty is reserved to the petitioner to file an additional written statement. The FDP Court shall consider the same and pass an appropriate final decree in accordance with law.
- iii. Pending application if any, shall accordingly stand disposed of.

Sd/-
(ASHOK S. KINAGI)
JUDGE

AC
CT: BSB
List No.: 1 Sl No.: 38