



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 25TH DAY OF MARCH 2026
BEFORE
THE HON'BLE MR. JUSTICE ASHOK S. KINAGI
WRIT PETITION NO. 102529 OF 2023 (GM-CPC)

BETWEEN:

1. SHRI GURUSIDDAPPA
SHIVAYOGEPPA TALIKOTI,
AGE 68 YEARS,
OCC AGRICULTURE AND BUSINESS,
R/O BADIGER COLONY,
HUVIN-HIPPARGI,
TQ BASAVAN BAGEWADI,
DIST VIJAYAPURA.

...PETITIONER

(BY SRI. SANGRAM S KULKARNI, ADVOCATE)

AND:

1. SHRI. ASHOK RACHAPPA GOVESHWAR
AGE 56 YEARS, OCC. BUSINESS,
R/O SRI PRABHU TRADERS,
GENERAL MERCHANT
AND COMMISSION AGENT,
APMC YARD, NARGUND.

...RESPONDENT

(BY SRI. MRUTYUNJAYA TATA BANGI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, ISSUE A WRIT OF CERTIORARI AND QUASH THE IMPUGNED ORDER DATED 23/3/2023 VIDE ANNEXURE-E PASSED BY THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE, GADAG IN MISC.NO.107/2022 & ETC.

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

VIJAYALAKSHMI
M KANKUPPI



Digitally signed by
VIJAYALAKSHMI
M KANKUPPI
Date: 2026.04.08
16:05:48 +0530



ORAL ORDER

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

1. The petitioner filed this writ petition challenging the order dated 23.03.2023 vide Annexure-E, wherein the appellate Court has refused to extend the interim order passed in Misc. No.107/2022 by the learned Additional District and Sessions Judge, Gadag.

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

3. The respondent filed a suit in Com.O.S. No.1/2019 on the file of the learned I Additional District and Sessions Judge, Gadag, against the petitioner for recovery of money. The trial Court has proceeded with the trial during the COVID pandemic period and has passed an exparte judgment against the petitioner on 20.3.2021. The petitioner aggrieved by the judgment and decree filed a miscellaneous petition under Order IX Rule 13 read with Section 151 of CPC for setting aside the exparte decree. In the said miscellaneous petition, the petitioner filed an application to stay the execution and operation of the judgment and decree. The first appellate Court initially granted



an ad-interim order. Subsequently, the petitioner filed an application for extension of interim order. The appellate Court rejected the application vide order dated 23.03.2023. Hence, this petition.

4. Heard the arguments of the learned counsel for the petitioner and the learned counsel for the respondent.

5. Learned counsel for the petitioner submits that the petitioner has not received any summons from the trial court in the suit filed by the respondent and the petitioner was not aware of the pendency of the suit. The judgment and decree passed by the trial Court is an exparte order and the petitioner filed an application for setting aside the exparte decree passed in Civil Misc.No.107/2022. He submits that the appellate Court initially granted an ad-interim order but subsequently refused to extend the interim order. He submits that, if the interim order, as prayed for is not extended, the respondent may execute the decree. He submits that the respondent has now filed an execution petition and it is pending consideration. Hence, on these grounds, he prays to allow the writ petition.



6. Per contra, learned counsel for the respondent submits that the trial Court has issued summons to the petitioner and the summons were duly on the petitioner. Despite service of summons, the petitioner remained unrepresented and was placed exparte before the trial Court. The trial Court was justified in passing an exparte decree. Hence, the appellate Court was justified in not extending the interim order. Hence, on these grounds, he prays to dismiss the petition.

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

8. It is an undisputed fact that the respondent filed a suit for recovery of money against the petitioner in Com.O.S.No.1/2019. The petitioner claims that summons has not been duly served upon the petitioner. Admittedly, he was placed exparte and the trial Court has passed an exparte judgment. The petitioner filed a petition under order IX Rule 13 of CPC in Misc.No.107/2022 along with an application to stay the execution and operation of the impugned judgment and decree passed in Com.O.S. No.1/2019. The appellate Court initially passed an interim order staying the execution and operation of



the judgment and decree passed in Com.O.S. No.1/2019. The said interim order was not extended. The petitioner filed an application for extension of an interim order. The appellate Court has rejected the said application on the ground that the judgment and decree passed in Com.O.S.No.1/2019 came for extension in EP No.1/2022. From the point of jurisdiction, EP was transferred and DTP has already been sent to the jurisdictional Court at Bijapur and the interim order of stay on I.A.2 gets extinguished and extension of interim order by filing another I.A. is not permitted under the Code of Civil Procedure. The findings recorded by the appellate Court is arbitrary and erroneous. The appellate Court had already granted an interim order. The appellate Court could have extended the interim order.

9. This Court has granted an interim order vide order dated 19.04.2023.

10. From the perusal of the records, it clearly discloses that the trial was conducted during the period of COVID-19 pandemic. This Court has already recorded a finding that the matter requires consideration. If interim order granted by this Court dated 19.04.2023 is continued till disposal of the



miscellaneous petition, no injustice would cause to the respondent. In view of the above discussion, the impugned order vide Annexure-E is liable to be set aside.

11. Accordingly, I proceed to pass the following:

ORDER

- i. The writ petition is allowed.
- ii. The impugned order dated 23.03.2023 vide Annexure-E is set aside.
- iii. Consequently, the interim order dated 19.04.2023 granted by this Court stands extended till disposal of Misc. No.107/2022.

Sd/-
(ASHOK S. KINAGI)
JUDGE