



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 5TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.104565 OF 2025 (GM-CPC)

BETWEEN:

1. SHRI. NEELAKANT
S/O. BASALINGAPPA INDISHETTER,
AGE. 39 YEARS, OCC. AGRICULTURE,
R/O. MANGYANKOPPA (MAGYANKOPPA)
TALUKA. KHANAPUR, DIST. BELAGAVI-591106.
2. SHRI. VISHAL
S/O. BASALINGAPPA INDISHETER,
AGE. 36 YEARS, OCC. AGRICULTURE,
R/O. MANGYANKOPPA (MAGYANKOPPA)
TALUK. KHANAPUR, DIST. BELAGAVI-591106.

...PETITIONERS

(BY SRI. SANJAY S.KATAGERI, ADVOCATE)

AND:

1. SHRI. SHANKAR
S/O. SHIDDAPPA CHUNGADI,
AGE. 64 YEARS, OCC. SERVICE (RETD.)
R/O. BAZAAR GALLI, M.K. HUBLI,
TALUKA. BAILHONGAL, DIST. BELAGAVI-591118.
2. SHRI. SHRIDHAR
S/O. SHIDDAPPA CHUNGADI,
AGE. 51 YEARS, OCC. SERVICE,
R/O. BAZAR GALLI, M.K. HUBLI,
TALUK. BAILHONGAL, DIST. BELAGAVI-591118.





3. SMT. SHANTAWWA
W/O. BASAVANEPPA RAHUT,
AGE. 71 YEARS, OCC. HOUSEHOLD WORK,
R/O. BAZAR GALLI, M.K. HUBLI,
TALUK. BAILHONGAL, DIST. BELAGAVI-591118.

...RESPONDENTS

(BY SRI.DIWAKAR G.BHAT, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO A) ISSUE A WRIT OR ORDER OR DIRECTION IN THE NATURE CERTIORARI BY QUASHING SAID PORTION OF THE IMPUGNED JUDGMENT AND ORDER DATED 21-03-2025 PASSED IN R.A. NO.238/2012 BY THE LEARNED VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI AS PER ANNEXURE-P HEREIN, IN RESPECT OF DEEMED REJECTION OF THE INTERIM APPLICATION DATED 29-10-2022 AS FILED BY THE PETITIONERS UNDER ORDER-41 RULE-27 OF CPC AS PER ANNEXURE-J AND PARTLY REJECTION OF THE INTERIM APPLICATION DATED 29-10-2022 AS FILED BY THE PETITIONERS UNDER ORDER-6 RULE-17 OF CPC IN RESPECT OF THE SAID REJECTION OF PARA-10(A) TO 10(E) AS PER ANNEXURE-K HEREIN, BY ALLOWING THE SAID APPLICATIONS IN ITS ENTIRETY AS SOUGHT THEREIN BY THE PETITIONERS, BY ALLOWING THIS WRIT PETITION BY THIS HON'BLE COURT, IN THE INTEREST OF JUSTICE AND EQUITY. B) ISSUE A WRIT OR ORDER OR DIRECTION IN THE NATURE OF MANDAMUS TO THE LOWER APPELLATE COURT-VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI TO RE-HEAR THE SAID INTERIM APPLICATION DATED 29-10-2022 AS FILED AS FILED BY THE PETITIONERS UNDER ORDER-41 RULE-27 OF CPC AS PER ANNEXURE-J HEREIN AND DIRECTING TO PASS NECESSARY ORDER IN ACCORDANCE WITH LAW, IN THE ENDS OF JUSTICE. C) ISSUE SUCH OTHER WRIT OR ORDER OR DIRECTION AS THIS HON'BLE COURT MAY DEEMS FIT IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

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



CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order passed in R.A.No.238/2012 dated 21.03.2025 by the VI Additional District & Sessions Judge, Belagavi, the petitioners/defendants are before this Court.

2. The defendant has filed an application under Order 41 Rule 27 read with Section 151 of CPC and another application is filed under Order 6 Rule 17 read with Section 151 of CPC. The application under Order 41 Rule 27 of CPC was filed seeking permission to produce the documents as additional evidence.

3. The Appellate Court by impugned order had partly allowed the I.A. filed under Order 41 Rule 27 of CPC and the defendants are allowed to produce the registered sale deed dated 25.05.1973 by way of additional evidence and I.A. dated 29.10.2022 filed under Order 6 Rule 17 of CPC was partly allowed and the defendants are permitted to insert, by way of amendment to the written statement, para-10F only as shown in the application. An issue was also framed which reads thus:

"Whether the defendants prove that Sharadabhai had purchased property in Sy.No.38/1A of Mangyankoppa (suit



schedule item No.I) property under a registered sale deed?

4. The Appellate Court had observed that in view of the provisions of Order 41 Rule 25, the matter is referred to Senior Civil Judge, Khanapur, to give finding on the issue framed by the trial Court and the parties are at liberty to adduce evidence on the issue framed by the trial Court. The Appellate Court had observed that the whole exercise is to be completed within 6 months. Thereafter, trial Court to submit TCR along with its findings. Since matter is of the year 2010, parties are directed to appear before the trial Court on 24.04.2025 without waiting for the notice.

5. Learned counsel appearing for the petitioners submits that by way of an I.A. filed under Order 41 Rule 27 of CPC, the petitioners want to produce one Diary/Book wherein day today events are written by late Siddappa Chungadi and after going through the contents of the said diary, they came to know that he married Sharadabai during his lifetime in the year 1951. The defendants also want to produce the pension payment order and ID card of Sharadabai and Wardi application given by Siddappa



Chungadi to revenue authorities. It is the case of the defendants that they came to know about this on 2nd week of October 2022, as such, they want to place all these documents on record.

6. The trial Court by order impugned had observed that first of all, the dairy as such cannot be said to be a diary maintained by Siddappa because there is no continuity. Diary began in the year 1964, there is some discontinuation and again it starts from 01.01.1974. So this is not the contemporaneous document making a reference to the marriage during 1951 with Sharadabai. Then coming to the reliance upon the mutation entries, how far those entries would come to the rescue of the defendants is a point to be determined, irrespective of the fact that whether or not there was a legal marriage between Shardabai and Siddappa Chungadi. As far as the pension payment order is concerned, the trial Court had observed that the passbook will not be helpful to find out the answer arising in the suit. The trial Court had observed that it is necessary to find out whether the suit schedule-I property was purchased by Sharadabai has to be decided. For that reason, the defendants



have to be allowed to produce the sale deed dated 25.05.1973 by way of additional evidence.

7. Learned counsel appearing for the defendants submits that the trial Court at this stage cannot decide whether the same is necessary or not. It is submitted that if those documents are taken as additional evidence and the trial Court decides about the same as contemplated under Order 41 Rule 25 of CPC, it would decide the issues that are involved in the suit and the Appellate Court ought to have allowed the application in toto instead of allowing only the sale deed to be produced as additional evidence.

8. Learned counsel appearing for the respondents/plaintiffs submits that this is the suit of the year 2010 and the suit is pending from the last 16 years. It is submitted that the Appellate Court had rightly considered and passed an order. Considering the fact that it is a suit of 2010, there shall be a direction to the Court to dispose of the matter as expeditiously as possible.

9. Having heard the learned counsels on either side, perused the material on record. This Court has perused the application that is filed under Order 41 Rule 27 of CPC, the



reasoning that is given by the trial Court and conducting the roving inquiry at this stage is not necessary, whether they are helpful to the defendants or not. In the considered opinion of this Court, all the documents that he wants to adduce as additional evidence under Order 41 Rule 27 of CPC, ought to have been allowed by the trial Court. In the light of these documents being allowed to be taken as additional evidence, the petitioners can also amend the written statement by incorporating the pleadings. In that view of the matter, this Court is passing the following:

ORDER

- i. I.A. dated 28.03.2016 filed by the petitioner under Order 41 Rule 27 of CPC is allowed and the defendants are at liberty to raise the additional pleadings in support of the same and the Appellate Court shall frame the issue in that regard, if necessary.
- ii. I.A. filed under Order 6 Rule 17 of CPC in connection to the I.A. filed under Order 41 and Rule 27 of CPC is allowed.
- iii. The parties shall appear before the trial Court on 26.02.2026 and the Trial Court shall dispose of the



application within two months from the date of receipt of the copy of the order.

- iv. The trial Court records shall be sent along with the order to the Appellate Court and the Appellate Court shall decide the pending R.A.No.238/2012 within a period of 3 months from the date of receipt of order from the trial Court.
- v. The petitioners shall file the amended written statement.
- vi. Accordingly, the writ petition is ***disposed of*** with costs of Rs.10,000/-.
- vii. All I.As. in this petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI

MEG
CT: UMD
List No.: 1 Sl No.: 66