



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.105145 OF 2024 (GM-CPC)

BETWEEN:

1. SMT. CHAMABAVVA SHIVANGOUDA PATIL,
AGE: 74 YEARS, OCC: HOUSE WIFE,
R/O. PUJERI GALLI, IN FORT OF RAMESHWAR TEMPLE,
PANT BALEKUNDRI BK, BELAGAVI.
2. SMT. MAHADEVI @ SHIVLEELA W/O. IRANNA KUGALAGI,
AGE : 52 YEARS OCC: HOUSE WIFE,
R/O : H.NO.72, PLOT NO.9A, BASAV COLONY,
PANT NAGAR, BALEKUNDRI BK, BELAGAVI.
3. SHRI. NAGANGOUDA S/O. SHIVANGOUDA PATIL,
AGE : 50 YEARS, OCC: AGRICULTURE,
R/O : PUJERI GALLI, IN FORT OF RAMESHWAR TEMPLE,
PANT BALEKUNDRI BK, BELAGAVI.
4. SHRI. RAMANGOUDA S/O SHIVANGOUDA PATIL,
AGE : 46 YEARS, OCC: AGRICULTURE,
R/O : PUJERI GALLI, IN FORT OF RAMESHWAR TEMPLE,
PANT BALEKUNDRI BK, BELAGAVI.

...PETITIONERS

(BY SRI. MAHESH N.KULKARNI, ADVOCATE)

AND:

1. SMT. BASAVANNI W/O. RAMANGOUDA PATIL,
AGE: 74 YEARS, OCC: HOUSE WIFE,
R/O: LIG-95, ASHOK NAGAR, NEAR GANAPATI TEMPLE,
BELAGAVI-590016.
2. SMT. LALEETA W/O. CHANDRAGOUDA GIREPPAGOUDA,
AGE: 52 YEARS, OCC: HOUSE WIFE,
R/O: LIG-95, ASHOK NAGAR, NEAR GANAPATI TEMPLE,
BELAGAVI-590016.
3. SHRI. RAJSHEKHAR S/O. RAMANGOUDA PATIL,
AGE: 47 YEARS, OCC: PRIVATE SERVICE,

VIJAYALAKSHMI
M KANKUPPI



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R/O: LIG-95, ASHOK NAGAR, NEAR GANAPATI TEMPLE,
BELAGAVI-590016.

4. SHRI. CHANNAGOUDA S/O. BASANGOUDA PATIL,
AGE : 77 YEARS, OCC: AGRICULTURE,
R/O : LAXMI GALLI, BALEKUNDRI BK, BELAGAVI-591103.

SHRI. GOUDAPPAGOUDA S/O. BASANGOUDA PATIL,
SINCE DECEASED HIS LR'S
- 5 SMT. ANNAWAA W/O. GOUDAPPA PATIL,
AGE: 61 YEARS, OCC: HOUSEWIFE,
R/O. JANATA PLOTS, BALEKUNDRI BK, BELAGAVI-591103.
6. SHRI. ANAND S/O. GOUDAPPA PATIL,
AGE: 39 YEARS, OCC: SERVICE,
R/O. JANATA PLOTS, BALEKUNDRI BK, BELAGAVI-591103.
7. SMT. ARCHANA W/O. KIRAN TUBAKI,
AGE: 37 YEARS, OCC: HOUSEWIFE,
R/O. MAHANTESH NAGAR,
TQ AND DIST: BELAGAVI-590001.
8. SHRI. ABHISHEK S/O. GOUDAPPA PATIL,
AGE: 61 YEARS, OCC: SERVICE,
R/O. JANATA PLOTS, BALEKUNDRI BK, BELAGAVI-591103.
9. SHRI. HONAGOUDA S/O. BASANGOUDA PATIL,
AGE: 71 YEARS, OCC: AGRICULTURE,
R/O: JANATA PLOTS, BALEKUNDRI BK,
BELAGAVI-591103.
10. SMT. SHIVABASAVVA
W/O. GANAGADHAR GIRYAPAGAUDAR,
AGE: 67 YEARS, OCC: HOUSE WIFE,
R/O: LAXMI GALLI, BAILWAD, TQ: BAILHONGAL,
DIST: BELAGAVI-591102.
11. SMT. SAROJINI W/O. BASANGOUDA MODAKANGOUDAR,
AGE: 74 YEARS, OCC: HOUSE WIFE,
R/O: LAXMI GALLI, BAILWAD, TQ: BAILHONGAL,
DIST: BELAGAVI-591102.

SMT. KAMALAVVA W/O. BASANGOUDA PATIL,
SINCE DECEASED HER LR'S



12. SMT. JAYASHREE W/O. BALAPPA HIREHALLI,
AGE: 55 YEARS, OCC: HOUSEWIFE,
R/O. PANT NAGAR, BALEKUNDRI BK, BELAGAVI
TQ AND DIST: BELAGAVI-591103.
13. SMT. RAJESHWARI W/O. BASAVRAJ DAVALATI,
AGE: 52 YEARS, OCC: HOUSEWIFE,
R/O. SAMPAGAON VILLAGE,TQ. BAILHONGAL,
AND DIST: BELAGAVI-591125.

SHRI. RAMANGOUDA S/O. SHIVABASAPPA PATIL
SINCE DECEASED HER LR'S
14. SMT. NEETHA WD/O. RAMANGOUDA PATIL,
AGE: 30 YEARS, OCC: HOUSEWIFE,
R/O. LAXMI GALLI, BAILWAD,
TQ. BAILHONGAL BELAGAVI-591102.
15. KUMARI. ANVITHA D/O. RAMANGOUDA PATIL,
AGE: 9 YEARS, OCC: NIL,
R/O. LAXMI GALLI, BAILWAD,
TQ. BAILHONGAL BELAGAVI-591102
REPRESENTED BY NATURAL MINOR GUARDIAN OF
HER MOTHER RESPONDENT NO. 14.
16. SMT. SUVARNA W/O. MAHADEV TUBAKI,
AGE: 51 YEARS, OCC: HOUSE HOLD,
R/O: MAHANTESH NAGAR, TQ & DIST: BELAGAVI-590001.
17. SHRI. TAMMANGOUDA S/O. RUDRAGOUDA PATIL,
AGE: 80 YEARS, OCC: NIL,
R/O: PUJERI GALLI, NEAR RAMESHWAR TEMPLE,
BALEKUNDRI BK, BELAGAVI-591103.
18. SHRI. RUDRAGOUDA S/O. YALAGOUDA PATIL,
AGE: 74 YEARS, OCC: AGRICULTURE,
R/O: PANTA BALEKUNDRI (BK), TQ & DIST:
BELAGAVI-591103.
19. SMT. LAXMI W/O. SHIVABASAVGOUDA PATIL,
AGE: 57 YEARS, OCC: HOUSEHOLD WORK,
R/O: LAXMI GALLI, PANTA BALEKUNDRI (BK),
TQ & DIST: BELAGAVI-591103.
20. SHRI. SOMANGOUDA S/O. YALLAGOUDA PATIL,
AGE: 55 YEARS, OCC: AGRICULTURE,



- R/O: PANTA BALEKUNDRI (BK), TQ & DIST: BELAGAVI-591103.
21. SHRI. IRANNAGOUDA S/O. YALLANGOUDA PATIL,
AGE: 53 YEARS, OCC: AGRICULTURE,
R/O: PANTA BALEKUNDRI (BK), TQ & DIST: BELAGAVI-591103.
 22. SHRI. CHANDRAGOUDA S/O. YALLANGOUDA PATIL,
AGE : 51 YEARS, OCC: AGRICULTURE,
R/O: PANTA BALEKUNDRI (BK), TQ & DIST: BELAGAVI-591103.
 23. SMT. PREMA W/O. TAMMANNAGOUDA PATIL,
AGE: 47 YEARS, OCC: HOUSEHOLD WORK,
R/O: PANTA BALEKUNDRI (BK), TQ & DIST: BELAGAVI-591103.
 24. SMT. PRABHAVATI W/O. SHIVABASAVGOUDA PATIL,
AGE: 45 YEARS, OCC: HOUSEHOLD WORK,
R/O: PANTA BALEKUNDRI (BK), TQ & DIST: BELAGAVI-591103.
 25. SMT. MALLAWWA @ MALAPURI MALAGOUDA PATIL
AGE: 45 YEARS, OCC: HOUSEHOLD WORK
R/O : PATIL GALLI, NEAR LAXMI TEMPLE,
PANTA BALEKUNDRI (BK) TQ:DIST: BELAGAVI. -591103
 26. KUMARI. NANDINI D/O. MALAGOUDA PATIL,
AGE: MINOR, OCC: STUDENT,
R/O: PATIL GALLI, NEAR LAXMI TEMPLE,
PANTA BALEKUNDRI (BK) TQ: DIST: BELAGAVI-591103.
 27. KUMAR. YUVARAJ S/O. MALAGOUDA PATIL,
AGE: MINOR, OCC: STUDENT,
R/O: PATIL GALLI, NEAR LAXMI TEMPLE,
PANTA BALEKUNDRI (BK) TQ:DIST: BELAGAVI-591103,
(REPRESENTED BY R-25 AS NATURAL MOTHER
GUARDIAN OF RESPONDENT NO.26 & 27)
 28. SMT. AKKAVVA W/O. SHIVABASAVGOUDA PATIL,
AGE: 70 YEARS, OCC: HOUSEHOLD WORK,
R/O : SHIVPUJIONI, VITTAL TEMPLE, DIST : BELAGAVI-590001.

...RESPONDENTS

(BY SRI. SUJEET S.HIREMATH, ADVOCATE FOR R18 TO R27;
NOTICE TO R1 TO R4, R9 AND R17 ARE HELD SUFFICIENT AS PER
ORDER DATED 25.03.2026;
NOTICE TO R5 TO R8, R10 TO R16 AND R28 ARE DISPENSED WITH;
R26 AND R27 ARE MINOR REP. BY NATURAL GUARDIAN R24)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A. WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER PASSED ON 27.07.2024 IN O.S. NO.402/2019 ON THE FILE OF PRINCIPLE SENIOR CIVIL JUDGE AND CJM BELAGAVI VIDE ANNEXURE-E AND ETC.,

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

ORAL ORDER

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

The petitioners have filed this writ petition challenging the order dated 27.07.2024 passed in O.S.No.402 of 2019 by the learned Principal Senior Civil Judge and CJM, Belagavi.

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

The petitioners filed a suit for declaration, partition and separate possession and injunction in O.S.No.402 of 2019 on the file of the learned Principal Senior Civil Judge and CJM, Belagavi. Defendant Nos.4 to 6 have filed written statement and defendant Nos.11 and 12 have filed their separate written statement. The trial court framed the issues. The petitioners were examined and closed their side,



and the case was posted for the evidence of the defendants. Defendant No.11 was examined as D.W.1. When the matter was posted for cross-examination, the petitioners have contended that the defendants are colluding with each other, and sought to permit the other defendants to cross-examine D.W.1, and thereafter, the petitioners may be permitted to cross-examine D.W.1. The trial court rejected the contention of the petitioners vide order dated 27.07.2024. Hence, this writ petition.

3. Heard the arguments of the learned counsel for the petitioners, and the learned counsel for the respondents.

4. Learned counsel for the petitioners submits that the defendants have filed a written statement taking a common defence that a suit for partition was filed in O.S.No.38 of 2010, and the said suit was disposed of vide judgment dated 24.09.2019, wherein the petitioners were not parties to the said suit. He submits that the suit schedule properties are standing in the name of the



petitioners. The respondents without arraying the petitioners as a parties in the said suit obtained the decree in O.S.No.38 of 2010. He submits that the other defendants should cross-examine D.W.1 at the first instance, and thereafter, the petitioners will cross-examine D.W.1. He submits that the trial court committed an error in passing the impugned order without going through the contents of the separate written statement filed by the defendants. He also submits that an issue was framed in the suit in O.S.No.38 of 2010 regarding prior partition, and the said issue has been answered in negative. To buttress his arguments, he has placed reliance on the judgment of the Punjab and Haryana High Court in the case of **SUKHDEV AND OTHERS VS AVINASH MOHINDRU AND OTHERS** reported in **AIR 2021 PUNJAB AND HARYANA 106**. Hence, on these grounds, he prays to allow the writ petition.

5. *Per contra*, the learned counsel for the respondents submits that there is no collusion between the defendants/respondents herein. He submits that they have



filed a separate written statements. The trial court was justified in passing the impugned order, directing the petitioners to cross-examine D.W.1 at the first instance, and thereafter, a liberty was reserved to the respondents herein/defendants to cross-examine D.W.1. The impugned order passed by the trial court is just and proper and do not call for any interference at the hands of this Court. Hence, on these grounds, he prays to dismiss the writ petition.

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

7. Defendant No.11 filed a suit in O.S.No.38 of 2010 against the other respondents. The said suit was decreed vide judgment dated 24.09.2019. The petitioners filed a suit in O.S.No.402 of 2019 for declaration, to declare that the judgment and decree passed in O.S.No.38 of 2010 is not binding on the on the petitioners. It is contended that the suit schedule properties are owned and possessed by the petitioners. The respondents filed a separate written statement contending that there was a prior partition.



Admittedly, the suit in O.S.No.38 of 2010 was decreed vide judgment dated 24.09.2019.

8. From the perusal of the written statement filed by the respondents, it clearly discloses that there is no collusion between the respondents. It is a well settled law that when a defendant is examined, it is the duty of the plaintiff to cross-examine the defendant witnesses. The plaintiff cannot ask the other co-defendants to cross-examine D.W.1 wherein the defendants have not sought any counter claim against D.W.1. The trial court considering the entire material on record has rightly recorded a finding that there is no collusion between the defendants, and has rightly passed the impugned order.

9. The learned counsel for the petitioners placed reliance on the judgment of the Punjab and Haryana High Court in the case of **SUKUDEV AND OTHERS** (*supra*). From the perusal of paragraph 3 of the judgment, wherein defendant No.1 in the said suit has taken a different contention and defendant Nos.2 to 4 in the said suit have taken a different



stand. Hence, for the said reason, in the said case, the defendant was permitted to cross-examine at the first instance and thereafter the plaintiff was permitted to cross-examine the defendant witnesses. Admittedly in the instant case, as observed above, there is no collusion between the defendants/respondents and there is no inconsistent stand taken by the defendants/respondents in their separate written statements. Hence, the judgment relied upon by the learned counsel for the petitioners' is not applicable to the facts of the present case.

10. In view of the above discussion, I do not find any error in the impugned order passed by the trial court. Accordingly, I proceed to pass the following:

ORDER

i) The writ petition is dismissed.

Pending applications, if any, shall stand disposed of.

Sd/-
(ASHOK S. KINAGI)
JUDGE