



NC: 2026:KHC-D:4446
WP No. 107138 of 2024

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S. KINAGI

WRIT PETITION NO.107138 OF 2024 (GM-CPC)

BETWEEN:

1. SADASHIV BHIMAPPA BAJANTRI,
AGED ABOUT 62 YEARS, OCC. AGRICULTURE,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST BELAGAVI.
2. BHIMAPPA SADASHIV BAJANTRI,
AGED ABOUT 35 YEARS, OCC. AGRICULTURE,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST. BELAGAVI.
3. RAMESH SADASHIV BAJANTRI,
AGED ABOUT 34 YEARS, OCC. AGRICULTURE,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST. BELAGAVI.
4. UMESH SADASHIV BAJANTRI,
AGED ABOUT 31 YEARS, OCC. AGRICULTURE,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST. BELAGAVI.
5. MAHESH SADASHIV BAJANTRI,
AGED ABOUT 29 YEARS, OCC. AGRICULTURE,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST. BELAGAVI.
6. SMT. SONAWWA W/O. SADASHIV BAJANTRI,
AGED ABOUT 56 YEARS, OCC. HOUSEHOLD WORK,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST. BELAGAVI.

...PETITIONERS

(BY SRI. RAJASHEKHAR BURJI, ADVOCATE;
SRI. SRIKANT T.PATIL AND SRI. ROHIT S.PATIL, ADVOCATES)

AND:

1. VITHAL LAXMAN PADATARE,

MOHANKUMAR
B SHELAR



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AGED ABOUT 28 YEARS,
OCC. STUDENT AND AGRICULTURE,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST. BELAGAVI.

2. RANAPPA RAMAPPA BAJANTRI,
AGED ABOUT 60 YEARS, OCC. SERVICE,
R/O. LET COLONY ROAD, GOKAK, TQ. GOKAK,
DIST. BELAGAVI.
3. AVINASH RANAPPA BAJANTRI,
AGED ABOUT 35 YEARS, OCC. AGRICULTURE,
R/O. NIPNAL VILLAGE, TQ. RAIBAG, DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. KAMALAKAR M.S., ADVOCATE FOR R1;
NOTICE TO R2 IS DISPENSED WITH;
NOTICE TO R3 IS SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO IT IS PRAYED THAT THIS HON'BLE COURT BE PLEASED TO ALLOW THIS WRIT PETITION AND ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION TO A) SET-ASIDE THE ORDER DATED 24.02.2023 ON I.A FILED UNDER SECTION 10 OF CODE OF CIVIL PROCEDURE IN O.S.NO. NO.26/2020 ON THE FILE OF ADDL. CIVIL JUDGE, AT RAIBAG, PRODUCED AT ANNEXURE-A. B) ALLOW THE I.A FILED UNDER SECTION 10 OF CODE OF CIVIL PROCEDURE IN O.S.NO. NO.26/2020 ON THE FILE OF ADDL. CIVIL JUDGE, AT RAIBAG, PRODUCED AT ANNEXURE-F. C) PASS SUCH OTHER ORDER OR DIRECTION, THIS HON'BLE COURT DEEMS FIT IN THE CIRCUMSTANCE OF THE CASE.

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



ORAL ORDER

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

1. The petitioners, being aggrieved by the order dated 24.02.2023 passed in O.S. No.26/2020 by the learned Additional Civil Judge, Raibag, have filed this writ petition.

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

3. Petitioner No.2 had earlier filed a suit in O.S. No.523/2017 for permanent injunction. Subsequently, Respondent No. 1 filed O.S. No.26/2020 for permanent injunction against the defendants regarding the land bearing Survey No.130/5, measuring 2 acres 20 guntas, situated at Nipnal Village, Raibag Taluk, Belagavi District.

4. The petitioners entered appearance in O.S. No.26/2020 and filed their written statement denying the averments made in the plaint. Thereafter, the petitioners filed an application under Section 10 of the Code of Civil Procedure in O.S. No.26/2020 seeking stay of further



proceedings in the said suit till disposal of O.S. No.523/2017 pending on the file of the Principal Civil Judge, Raibag.

5. It was contended that the issues involved in both the suits are one and the same, the parties are substantially the same, and the subject matter of the suits is also identical. Therefore, to avoid the conflicting decisions, the proceedings in O.S. No.26/2020 were required to be stayed.

6. The said application was opposed by respondent No. 1 by filing objections.

7. The Trial Court, after hearing the learned counsel for the parties, rejected the application vide order dated 24.02.2023. Aggrieved by the same, the petitioners have filed this writ petition.

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

9. The learned counsel for the petitioners submits that the vendor of respondent No.1 is a party in O.S.



No.523/2017 and that the parties and subject matter in both the suits are substantially the same.

10. He submits that in order to avoid the conflicting decisions, the petitioners filed an application under Section 10 of the Code of Civil Procedure. However, the Trial Court, instead of allowing the application, has erroneously rejected the same. Hence, he submits that the impugned order is arbitrary and liable to be set aside and accordingly, prays to allow the petition.

11. *Per contra*, the learned counsel for the respondents submits that the subject matter of the properties in both the suits is different, the parties are also different, and the causes of action in both suits are distinct. Therefore, the Trial Court has rightly rejected the application. Accordingly, on these grounds, he prays for dismissal of the writ petition.

12. Perused the records and considered the submissions made by the learned counsel for the parties.



13. It is an undisputed fact that petitioner No.2 has filed O.S. No.523/2017 regarding the land bearing R.S. No.130/4A measuring 5 acres. On the other hand, O.S. No.26/2020 came to be filed by respondent No.1 regarding the land bearing R.S. No.130/5 measuring 2 acres 20 guntas, situated at Nipanal Village, Raibag Taluk, Belagavi District.

14. From the perusal of the subject matter of both suits, it is evident that the properties involved are different. Though the vendor of the petitioners is a party in O.S. No.523/2017, the other parties are not the same. Further, the causes of action in both suits are also different.

15. The Trial Court, upon considering the provisions of Section 10 of the Code of Civil Procedure, has rightly held that the parties in the earlier and subsequent suits are different, the properties are distinct, and the issues involved are not identical. Accordingly, it has correctly concluded that Section 10 of the Code of Civil Procedure is not



applicable to the present case and has rightly dismissed the application.

16. Hence, this Court does not find any error or illegality in the impugned order passed by the trial Court at Annexure-A. Accordingly, the following:

ORDER

- i. The writ petition is ***dismissed***.
- ii. Pending applications, if any, shall stand disposed of.

**Sd/-
(ASHOK S. KINAGI)
JUDGE**

AC
CT: UMD
List No.: 1 Sl No.: 53