



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S. KINAGI

WRIT PETITION NO.103441 OF 2021 (GM-CPC)

BETWEEN:

SADASHIV S/O. BABU KAMBLE,
AGE. 51 YEARS, OCC. SERVICE,
R/O. TERDAL, TALUK. RABAKAVI-BANAHATTI,
DIST. BAGALKOT, PIN-587315.

...PETITIONER

(BY SRI. PRAMOD KATHAVI, SR. COUNSEL FOR
SRI. SHIVARAJ P.MUDHOL, ADVOCATE)

AND:

1. ANNAPPA S/O. HANAMANTH MANG,
AGE. 61 YEARS, OCC. AGRICULTURE,
R/O. NAVALAGI, TALUK. RABAKAVI-BANAHATTI,
DIST. BAGALKOT, PIN-587312.
(SINCE DIED REPRESENTED BY HIS LRS)
- 1(A) MURAGEVVA W/O. ANNAPPA MANG,
AGE. 63 YEARS, OCC. HOUSEHOLD WORK,
T/O. NAVALAGI, TALUK. JAMKHANDI,
DIST. BAGALKOT, PIN-587312.
- 1(B) HANAMANTH S/O. ANNAPPA MANG,
AGED. 63 YEAS, OCC. AGRICULTURE,
T/O. NAVALAGI, TALUK. JAMKHANDI,
DIST. BAGALKOT, PIN-587312.
2. LAXMAN @ LAKKAPPA S/O. ANNAPPA MANG,
AGE. 32 YEARS, OCC. AGRICULTURE,
R/O. NAVALAGI, TALUK. RABAKAVI-BANAHATTI,
DIST. BAGALKOT, PIN-587312.
(SINCE DIED REPRESENTED BY HIS LRS)
- 2(A) SMT. SHANTAWWA W/O. LAXMAN
@ LAKKAPPA MANG @ BARAGAL,

VIJAYALAKSHMI
M KANKUPPI



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AGE. 30 YEARS, OCC. HOUSE HOLD WORK,
R/O. NAVALAGI, TALUK. JAMAKHANDI,
DIST. BAGALAKOT.

2(B) NIJAPPA S/O. LAXMAN @ LAKKAPPA
MANG @ BARAGAL,
AGE. 15 YEARS, OCC. NIL,
R/O. NAVALAGI, TALUK. JAMAKHANDI,
DIST. BAGALAKOT.

2(C) CHINNAWWA D/O. LAXMAN
@ LAKKAPPA MANG @ BARAGAL,
AGE. 14 YEARS, OCC. NIL,
R/O. NAVALAGI, TALUK. JAMAKHANDI,
DIST. BAGALAKOT.

2(D) CHANDRIKA D/O. LAXMAN
@ LAKKAPPA MANG @ BARAGAL,
AGE. 10 YEARS, OCC. NIL,
R/O. NAVALAGI, TALUK. JAMAKHANDI,
DIST. BAGALAKOT.

2(E) KANAKAMMA D/O. LAXMAN @
LAKKAPPA MANG @ BARAGAL,
AGE. 08 YEARS, OCC. NIL,
R/O. NAVALAGI, TALUK. JAMAKHANDI,
DIST. BAGALAKOT.

2(F) MARUTI S/O. LAXMAN @
LAKKAPPA MANG @ BARAGAL,
AGE. 03 YEARS, OCC. NIL,
R/O. NAVALAGI, TALUK. JAMAKHANDI,
DIST. BAGALAKOT.

3. NAKUL S/O. ANNAPPA MANG,
AGE. 33 YEARS, OCC. AGRICULTURE,
R/O. JAGADAL, TALUK. RABAKAVI-BANAHATTI,
DIST. BAGALKOT, PIN-587312.

...RESPONDENTS

(BY SRI. S.C. BHUTI, ADVOCATE FOR R1 AND R3;
NOTICE TO R1(A and B) and R2 (A) ARE SERVED;
R2 (B TO F) ARE MINORS NATURAL GUARDIAN-MOTHER R2 (A))

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA, PRAYING TO 1. TO ISSUE WRIT IN
THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER



DATED 15.07.2021 IN CIVIL MISC NO.9/2016 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, BANAHATTI AT BANAHATTI VIDE ANNEXURE-H. 2.TO DECLARE THAT ENTIRE PROCEEDINGS INITIATED BY THE RESPONDENTS NO.1 TO 3 AGAINST THE PETITIONER IN CIVIL MISC.NO.9/2016 DATED 15.07.2021 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, BANAHATTI AT BANAHATTI IS EXCESS OF JURISDICTION AND NOT SUSTAINABLE IN LAW AND ETC.,.

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 petitioner has filed this writ petition challenging the order dated 15.07.2021 passed in Civil Misc. No.9 of 2016 by the learned Senior Civil Judge and JMFC, Banahatti, vide Annexure-H, and also seeking a declaration that the entire proceedings initiated by respondent Nos.1 to 3 against the petitioner in Civil Misc. No.9 of 2016 are in excess of jurisdiction and not sustainable in law.

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

3. One Smt.Shettewwa filed a suit in O.S. No.146/2005 against the respondents and another, seeking a declaration that she is the owner of the suit property and for perpetual injunction. The said suit came to be decreed vide judgment and decree dated 18.04.2011, declaring the plaintiff therein i.e.



Shettewwa as the absolute owner of the suit property and holding that the mutation entries are null and void and defendants therein were restrained permanently from interfering with the peaceful possession of the suit property by the plaintiff.

4. Aggrieved by the same, the respondents preferred a Regular Appeal in R.A. No.12/2016 (Old No.12/2011) on the file of the learned Senior Civil Judge and JMFC, Banahatti. There was an interim order of stay in Regular Appeal. By judgment dated 21.10.2021, the said appeal was dismissed with costs, confirming the judgment and decree passed in O.S.No.146/2005.

5. The respondents have filed a miscellaneous petition in Civil Misc. No.9 of 2016, alleging that the petitioner has violated the interim order granted in R.A.No.68 of 2011(R.A. No.12 of 2011).

6. The petitioner appeared and filed a statement of objections denying the averments made in the petition. The Trial Court recorded the evidence of the parties, wherein respondent No.1 was examined as PW-1 and marked 21 documents as Exs.P1 to P21. In rebuttal, the petitioner examined himself as RW-1. The Trial Court, after recording the evidence and hearing learned counsel for the parties, and upon appreciation of the oral



and documentary evidence, allowed the petition vide order dated 15.07.2021 and sentenced the petitioner to undergo civil imprisonment for a period of 90 days.

7. Aggrieved by the order dated 15.07.2021 passed in Civil Misc. No.9 of 2016, the petitioner has filed this writ petition.

8. Heard, Sri.Pramod Kathavi, learned Senior Counsel appearing for Sri.Shivaraj P. Mudhol, learned counsel for the petitioner, and learned counsel, Sri S.C.Bhuti, learned counsel appearing for respondents No.1 and 3.

9. Learned Senior Counsel submits that the Civil Miscellaneous Petition arises out of an interim order passed in the Regular Appeal. He submits that the Regular Appeal has already been dismissed vide judgment dated 21.10.2021, produced at Annexure-J. He submits that even if the impugned interim order is alleged to have been violated, once the appeal or the suit is dismissed, the said interim order merges with the final order.

10. To buttress his contentions, he has placed reliance on the judgment of the Hon'ble Apex Court in **Kanwar Singh Saini vs. High Court of Delhi**, reported in **(2012) 4 SCC 307**, as well as the order passed by the Co-ordinate Bench of this Court



in ***Abdulrajak and another vs. Abdul Rahiman and others*** in Writ Petition Nos.202388-202389 of 2015, disposed of on 23.10.2018. Hence, he submits that the impugned order passed by the Trial Court is contrary to the propositions laid down by the Hon'ble Apex Court and the Co-ordinate Bench of this Court. Hence, on these grounds, he prays to allow the writ petition

11. *Per contra*, learned counsel for the respondent submits that the First Appellate Court had granted an interim order staying the execution and operation of the judgment passed in the suit. He submits that the petitioner has disobeyed the order passed by the First Appellate Court. Therefore, the trial Court was justified in passing the impugned order. Hence, on these grounds, he prays to dismiss the writ petition.

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

13. It is an undisputed fact that Smt.Shettewwa filed a suit for declaration seeking to declare herself as the absolute owner of the suit schedule property, to declare the mutation entries as null and void, and for grant of permanent injunction. The said suit in O.S. No.146 of 2005 was decreed vide Judgment dated 18.04.2011.



14. Aggrieved by the judgment and decree, the defendants preferred an appeal in R.A. No.12 of 2016 (old R.A. No.12 of 2011) on the file of the learned Senior Civil Judge and JMFC, Banahatti. Along with the appeal, they also filed an application seeking stay of execution and operation of the judgment and decree dated 18.04.2011 passed in O.S. No.146 of 2005. The said application was allowed, and the First Appellate Court granted an interim order staying the execution and operation of the said judgment and decree.

15. It is alleged that, notwithstanding the interim order, Smt.Shettewwa, based on the judgment in O.S.No.146 of 2005, approached the revenue authorities for effecting mutation of her name in the revenue records.

16. Although Smt.Shettewwa approached the authorities, it is the case of the respondents that they had intimated the petitioner regarding the interim order passed in R.A. No.12 of 2016, staying the execution and operation of the judgment and decree. Despite such intimation, the petitioner proceeded to pass an order in favour of the plaintiff i.e., Shettewwa in O.S.No.146 of 2005.



17. From the perusal of the impugned order, admittedly, the petitioner was not a party to any of the proceedings initiated by Shettewwa. Further, there was no specific direction issued to the petitioner restraining him from initiating any revenue proceedings. These aspects have not been considered by the Trial Court.

18. It is also not in dispute that the proceedings were initiated based on the interim order passed in R.A.No.12 of 2016. The petitioner has produced a copy of the judgment passed in the said appeal, which came to be dismissed by judgment and decree dated 21.10.2021. The respondents have not placed any material on record to establish that the petitioner had willfully disobeyed the said order. This aspect has also not been considered by the trial Court.

19. The Hon'ble Apex Court in ***Kanwar Singh Saini*** referred *supra* has held that "the application under Order XXXIX Rule 2-A CPC lies only where disobedience/breach of an injunction granted under Order XXXIX Rules 1 and 2 CPC is complained of; which is naturally to enure during the pendency of the suit; and once a suit decreed, the interim order merges into the final order."



20. Admittedly, the interim order granted in the aforesaid appeal has merged with the final Judgment. The Trial Court, without considering the proposition of law laid down by the Hon'ble Apex Court in the case **Kanwar Singh Saini** referred *supra*, as well as in **Abdulrajak and another** referred *supra* has committed an error in passing the impugned order at Annexure-H. The impugned order passed by the Trial Court is, therefore, arbitrary and erroneous.

21. Hence, in view of the above discussion, I proceed to pass the following order:

ORDER

- (i) The writ petition is **allowed**.
- (ii) The impugned order dated 15.07.2021 passed in Civil Miscellaneous No.9 of 2016 by the learned Senior Civil Judge and JMFC, Banahatti, is set-aside.
- (iii) Consequently, the Civil Miscellaneous petition stands dismissed.
- (iv) Pending applications, if any, stands disposed of.

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