



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 100301 OF 2026 (GM-CPC)

BETWEEN:

SUPARSHWA S/O. DR. SHEETAL HIREGOUDAR
AGE: 39 YEARS, OCC: PRIVATE WORK,
R/O. OF #224, 1ST CROSS, 3RD BLOCK,
HRBR LAYOUT, KACHARAKANAHALLI,
BANASAWADI, BENGALURU-560084.

... PETITIONER

(BY SRI ABHINANDAN M.G., ADVOCATE)

AND:

1. DR. SHANTA W/O. DR. SHEETAL HIREGOUDAR
AGE: 70 YEARS, OCC: DOCTOR,
R/O. 224, 1ST CROSS, 3RD BLOCK,
HRBR LAYOUT, KACHARAKANAHALLI,
BANASAWADI, BENGALURU-560084.

2. NAMEETH S/O DR. SHEETAL HIREGOUDAR
YARAGAMBALIMATH @ MATHAD
AGE: 31 YEARS, OCC: NIL,
(THE RESPONDENT NO.2 IS MENTALLY ILL,
THEREFORE HE IS REPRESENTED BY
NEXT FRIEND AND NATURAL GUARDIAN
MOTHER PETITIONER NO.1.

R/O. #224, 1ST CROSS, 3RD BLOCK,
HRBR LAYOUT, KACHARAKANAHALLI,
BANASAWADI, BENGALURU-560084.

3. DR. SUMATHI S/O. DR. SHEETAL HIREGOUDAR
AGE: 42 YEARS, OCC: DOCTOR,
R/O. ASSOCIATE PROFESSOR - E,
DEPT. OF TRANSFUSION MEDICINE
AND BLOOD BANK, JS- 2ND FLOOR,
TATA MEMORIAL CENTRE
ADVANCED CENTRE FOR TREATMENT
RESEARCH AND EDUCATIONAL IN CANCER (ACTREC)



SECTOR 22 UTSAV CHOWK-CISF ROAD,
OWE CAMP KHARGHAR, NAVI MUMBAI,
MAHARASHTRA-410210.

4. SMT. SHANTABAI W/O. APPASAHEB BAGI
AGE: 80 YEARS, OCC: HOUSE WIFE,
R/O. NEAR JAIN TEMPLE, NANDAGAON,
TQ: ATHANI, DIST: BELAGAVI-591304.
5. VASU @ VASUPALGOUDA HIREGOUDAR
AGE: 76 YEARS, OCC: RETD. GOVT. SERVANT,
R/O. NO. 199D, 1ST FLOOR, 7TH B MAIN,
27TH CROSS, 3RD BLOCK, JAYANAGAR,
BANGALURU-560011.
6. SMT. SULOCHANA W/O. GULABCHAND SURPUR
AGE: 74 YEARS, OCC: HOUSE WIFE,
R/O. SHREYASH,
BEHIND SARASAGANGA BUILDING,
NEAR SUVARNA PETROL BUNK,
LAXMINAGAR, DHARWAD-580004.
7. SMT. PRAMILA W/O DEVENDRA J. BASTI
AGE: 72 YEARS, OCC: HOUSE WIFE,
R/O. S2-74- SFS 208,
IN FRONT OF MOTHERS DAIRY,
YALAHANKA NEW TOWN,
BENGALURU-560064,

DR. SHAILA D/O BHIMANAGOUDA HIREGOUDAR,
SPINSTER DIED DURING THE PENDENCY OF THE FDP

... RESPONDENTS

(BY SRI K.L. PATIL, ADVOCATE FOR R1 AND R2,
SRI S.N.BANAKAR, ADVOCATE FOR R4,R6 AND R7)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI TO SET ASIDE THE OBSERVATION MADE WITH REGARD TO ACCEPTANCE OF THE COMMISSIONER REPORT SUBMITTED BY THE CITY SURVEYOR DHARWAD IN THE ORDER DATED 11.08.2025 PASSED BY 2ND ADDL. SENIOR CIVIL JUDGE AND JMFC, DHARWAD IN FDP NO. 28/2022 VIDE ANNEXURE-E.

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



ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

The present writ petition is directed against the order passed by the Final Decree Proceedings Court accepting the report submitted by the Court Commissioner. The petitioner has questioned the acceptance of the Commissioner's report on the ground that the mode of partition suggested therein is neither practicable nor capable of implementation and that the allotments proposed by the Commissioner are unworkable. Taking note of the said grievance, this Court, by order dated 12.06.2026, had granted an interim order staying the operation of the impugned order.

2. Today, learned counsel appearing for respondent No.1/plaintiff No.1 fairly submits that if the suit schedule immovable properties are divided by metes and bounds in terms of the Commissioner's report, the shares falling to the parties would be highly fragmented and reduced to insignificant fractions, thereby rendering the partition



impracticable. It is also fairly submitted that though the report was accepted by the Court below, the same itself discloses that the properties are incapable of convenient partition by metes and bounds. The individual allotments that would fall to the share of the parties, if the Commissioner's report is implemented, would be extremely small and fragmented, thereby substantially affecting the utility, enjoyment and market value of the properties.

3. Both sides fairly submit that in the peculiar facts of the case, recourse has to be had to the provisions of the Partition Act, 1893. Having regard to the nature and extent of the suit properties and the consensus expressed by the learned counsel appearing for the parties, this Court is of the view that the impugned order accepting the Commissioner's report insofar as the immovable properties are concerned cannot be sustained and requires to be set aside.



4. Accordingly, the matter requires to be relegated to the Final Decree Court for working out the rights of the parties in accordance with the provisions of the Partition Act, 1893.

5. For the foregoing reasons, this court proceeds to pass the following:

ORDER

- (i) The writ petition is ***allowed in part.***
- (ii) The order accepting the Commissioner's report insofar as it relates to the immovable properties is hereby quashed and set aside.
- (iii) The Final Decree Proceedings Court is directed to ascertain the prevailing market value of the three suit immovable properties through an appropriate mode permissible in law. Upon determination of the market value, the same shall



constitute the reserve price/base price for the purpose of allotment.

(iv) Thereafter, the parties to the final decree proceedings shall be afforded an opportunity to participate in an inter se auction. The party offering the highest bid, which shall not be below the reserve price fixed by the Court, shall be entitled to have the property allotted in its favour, subject to deposit of the bid amount within the time stipulated by the Court. The remaining co-sharers shall be entitled to receive their respective shares out of the sale consideration so deposited by the highest bidder.

(v) In the event none of the parties is willing to offer a price above the reserve price or declines to participate in the inter se bidding, the Final Decree Court shall be at



liberty to bring the properties to sale by public auction and distribute the sale proceeds amongst the parties in accordance with their respective shares.

(vi) Though some of the respondents remain unserved, this Court is satisfied that the present order would enure to their benefit as well, inasmuch as they would also be entitled to participate in the inter se auction or public auction proceedings and receive their proportionate share in the sale proceeds.

(vii) The Final Decree Proceedings Court shall complete the aforesaid exercise as expeditiously as possible and, in any event, within a period of three months from the date of receipt of a certified copy of this order.



(viii) Pending interlocutory applications, if any,
do not survive for consideration and stand
disposed of.

Sd/-
(SACHIN SHANKAR MAGADUM)

CKK
CT:GSM
List No.: 1 Sl No.: 8