



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 2ND DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.100514 OF 2026 (GM-CPC)

BETWEEN:

KATAGI JAMBAIAH NAYAK
S/O. HANUMANTHAPPA,
AGED ABOUT 48 YEARS, OCC. AGRICULTURIST,
R/O. THALAWAR KERI, 33RD WARD,
HOSAPETE CITY AND TALUK,
VIJAYANAGARA DISTRICT-583201.

...PETITIONER

(BY SRI. S.S. KOLIWAD, ADVOCATE)

AND:

1. B.S. HANUMANTHAPPA
S/O. LATE SANNA HANUMANTHAPPA,
AGE ABOUT 73 YEARS,
2. SMT. KOTRAMMA W/O. LATE THINDAPPA,
AGED 59 YEARS,
3. SRI. MARUTHESH S/O. LATE THINDAPA,
AGED ABOUT 37 YEARS,

ALL ARE R/O. 7TH WARD, NEAR KAREAMMA TEMPLE,
HAMPI ROAD, ANANTHASHYANAD GUDI,
HOSAPETE CITY AND TALUK,
VIJAYANAGARA DISTRICT-583201.





4. SMT. AILI SAROJA W/O. LATE AILI KASINATH,
MAJOR, PRESENTLY RESIDING
AT SADASHIVA NAGAR, KURUGODU TOWN,
KAMPLI ROAD, KURUGODU TALUK,
BALLARI DISTRICT-583116.
5. ALI RAGHAVENDRA S/O. LATE AILI KASINATH,
MAJOR, PRESENTLY RESIDING
AT SADASHIVA NAGAR, KURUGODU TOWN,
KAMPLI ROAD, KURUGODU TALUK,
BALLARI DISTRICT-583116.
6. THARIHALLI VENKATESH
S/O. THARIHALLI NAGAMMA,
AGED ABOUT 50 YEARS, OCC. AGRICULTURIST,
R/O. THALAWAR KERI, 33RD WARD,
HOSAPETE CITY AND TALUK,
VIJAYANAGARA DISTRICT-583201.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH AND SET ASIDE THE IMPUGNED ORDER DATED 20.09.2025 PASSED BY THE PRL. SENIOR CIVIL JUDGE AND JMFC, HOSAPETE, ON I.A. NO.VI IN O.S.NO.128/2022 IN THE SAID SUIT AND ALLOW THE SAID I.A. NO.VI FILED BY THE PETITIONERS UNDER ORDER I RULE 10 CPC, AND DIRECT THE TRIAL COURT TO IMPEAD THE PETITIONER, AS DEFENDANTS NO.3 AND 4 IN THE SUIT; AS VIDE ANNEXURE-F AND GRANT SUCH OTHER OR FURTHER RELIEFS AS THIS HON'BLE COURT DEEMS FIT, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



ORAL ORDER

Aggrieved by order dated 20.09.2025 passed on I.A. No.VI in O.S. No.128/2022 by the Prl. Senior Civil Judge and J.M.F.C., Hosapete, proposed defendant No.3 is before this Court.

2. Respondent Nos.1 to 3 herein have filed a suit against respondent Nos.4 and 5 seeking declaration and injunction. In that, at the time of trial, I.A. No.VI is filed by the petitioner to implead him along with another as defendant Nos.3 and 4. It is the case of the proposed party that there was an agreement to purchase the scheduled property and in that regard, he has paid the amount to the defendant No.1. As such, he is a proper and necessary party to the suit. The trial Court, by order impugned, had dismissed the said IA observing that the necessary party is the one whose presence is required and in the absence of whom, the suit cannot be decided completely and efficiently. The applicants have not produced any document much less the agreement of sale. Moreover, the present suit is for declaration and injunction. Admittedly, the applicants are not the owners of the suit property. That being so, if the decree is passed, their right is not affected. Apart from that, if at all they



are agreed to purchase the suit property under sale agreement, their remedy is to file a suit for specific performance of the contract against defendant No.1. But his participation in the present suit is not required and dismissed the application.

3. Learned counsel appearing for the petitioner submits that if there is any collusion between the plaintiffs and the defendants, the rights of the petitioner/third party, who wants to implead himself as defendant, would be affected. This aspect was not considered by the trial Court. It is submitted that his presence in the suit proceedings is very much necessary for the effective adjudication of the dispute and also the interest of the petitioner will be protected. It is submitted that though the petitioner has a remedy and he will be filing a suit for specific performance, his presence in this suit is very much necessary.

4. Having heard the learned counsel for the petitioner, perused the material on record. The suit is filed on 11.10.2022 seeking declaration and injunction. According to the petitioner, who is the proposed party, he has paid an amount on 05.11.2022 to the defendant No.1 for purchasing the suit schedule property. It is the case of the plaintiffs that they are the owners of the property and they want a declaration in respect of



the suit schedule property against the defendants. If the petitioner is entitled for any relief or he has paid the amount to the defendant No.1, then necessarily he has to file a suit for specific performance of the contract against the defendant No1. In a suit for declaration, the trial Court will not decide about the interse dispute between the contesting defendants and this impleading party, who wants to be impleaded as a defendant. This will enlarge the scope of the suit. The trial Court had rightly considered as to who is proper and necessary party to the suit and if the petitioner is not a party to the suit, what is the effect of it. In the considered opinion of this Court, the trial Court had rightly considered and dismissed the application. This Court finds no reason to interfere.

5. Accordingly, this Court is passing the following:

ORDER

- i) The writ petition is ***dismissed***.
- ii) All I.A.s in this writ petition shall stand closed.

**Sd/-
JUSTICE LALITHA KANNEGANTI**

RH/JTR
CT: UMD
List No.: 1 Sl No.: 13