



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO.200624 OF 2026 (GM-CPC)

BETWEEN:

1. BASAVVA W/O IRAPPA LINGAMANI,
AGE 73 YEARS OCC H.H.WORK
R/O TAMBA, TQ INDI,
DIST VIJAYAPUR-586215
2. YAMANAVVA W/O CHANDRAKANT
KONASHIRASGI
AGE 43 EYARS, OCC H.H.WORK
R/O JEMBAGI, TQ & DIST VIJAYAPUR-586113

...PETITIONERS

(BY SRI. MANVENDRA REDDY, ADVOCATE)

AND:

1. VISHWANATH S/O HANAMANTH KATNALLI
AGE 71 YEARS, OCC AGRI,
R/O NAGATHAN,
TQ & DIST VIJAYAPURA-586112
2. SHIVAGANGAVVA W/O LAYAPPA MUKHANE
AGE 30 YEARS, OCC H.H.WORK
R/O BANDARAKOTE
TQ DIST SOUTH SOLAPUR-413221

...RESPONDENTS

(BY SRI. VINAYAK APTE, ADV. FOR R1
NOTICE TO R2 DISPENSED WITH)





THIS WRIT PETITION IS FILED UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA, PRAYING TO (I) ISSUE A WRIT IN THE NATURE OF THE CERTIORARI THEREBY QUASHING THE IMPUGNED ORDER ON I.A NO. III DATED 04-03-2025 PASSED IN OS NO. 333/2018 ON THE FILE OF CIVIL JUDGE AND JMFC, INDI VIDE ANNEXURE-F, IN THE INTEREST OF JUSTICE AND EQUITY. II) ISSUE WRIT IN THE NATURE OF MANDAMUS THEREBY ALLOWING I.A NO. III FILED BY THE PETITIONERS IN OS NO. 333/2018 AND THEREBY PW1 TO PW3 AND PERMIT THE PETITIONERS/DEFENDANTS TO CROSS EXAMINE PW-1 TO 3 WITNESSES.

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

1. The defendant Nos.1 and 3 are before this Court in this writ petition filed under Article 227 of the Constitution of India, seeking for the following reliefs:

(i) *Issue a writ in the nature of the certiorari thereby quashing the impugned order on I.A.No.III dated 04.03.2025 passed in O.S.No.333/2018 on the file of Civil Judge and JMFC, Indi, vide Annexure-F, in the interest of justice and equity;*

(ii) *Issue writ in the nature of mandamus thereby allowing I.A.No.III filed by the petitioners in O.S.No.333/2018 and thereby recall P.W.1 to P.W.3*



and permit the petitioners/defendants to cross-examine P.W.1 to 3 witnesses;

(iii) Issue any other suitable writ or order or direction which the Hon'ble Court may deem fit in the circumstances of the case, as stated above, in the interest of justice and equity;

2. Heard the learned counsel for the parties.

3. Respondent No.1 herein has filed O.S.No.333/2018 before the jurisdictional Civil Court at Indi, seeking relief of specific performance of the agreement for sale dated 28.07.2016. In the said suit, on behalf of the plaintiff three witnesses are examined as P.W.1 to P.W.3. It appears that, the application filed by the petitioners under Order 18 Rule 17 read with Section 151 of CPC., to recall P.W.1 to P.W.3 for the purpose of their cross-examination by the petitioners was rejected by the Trial Court vide Order at Annexure-F, dated 04.03.2025. It is under these circumstances, the petitioners are before this Court.

4. Learned counsel for the petitioners having reiterated the grounds urged in the petition submits that,



though the petitioners were earlier granted opportunity to cross-examine P.W.1 to P.W.3 by the trial Court, the said opportunity could not be utilized by them for the reasons which were beyond their control. He submits that, if the petitioners are not permitted to cross-examine P.W.1 to P.W.3, their defence will be seriously prejudiced and he undertakes to cross-examine P.W.1 to P.W.3 on the next two dates of hearing before the trial Court, if P.W.1 to P.W.3 are kept present on the said dates.

5. Learned counsel appearing for the plaintiff who has opposed the petition submits that, the trial Court has granted sufficient opportunities to cross-examine P.W.1 to P.W.3 and petitioners are only attempting to drag on the litigation. The plaintiff is being put to untold hardship because of the same. Accordingly, he prays to dismiss the petition.

6. Perusal of the material on record would go to show that, the defendants were initially placed ex-parte and P.W.1 was examined by the trial Court. At that stage, the



defendants have entered appearance before the trial Court and had filed their written statement. Thereafter, issues were framed on 22.01.2020 and P.W.1 was once again examined before the trial Court. On behalf of the plaintiff he had examined two other witnesses as P.W.2 and P.W.3. However, since the defendants had not cross-examined P.W.1 to P.W.3, their cross-examination was taken as 'Nil'. Thereafter, on two occasions, the application filed on behalf of the petitioners to cross-examine P.W.1 to P.W.3 was allowed on payment of costs. However, on both occasions, defendants/petitioners had failed to cross-examine P.W.1 to P.W.3 and it is under these circumstances, the trial Court for the third time had taken cross-examination of P.W.1 to P.W.3 as 'Nil' by order dated 01.07.2024 and had posted the case for defendants' evidence.

7. It is under these circumstances, the present application namely I.A.No.3 was filed on behalf of the petitioners under Order 18 Rule 17 read with Section 151 of CPC., with a prayer to recall P.W.1 to P.W.3 for the purpose of their cross-examination. The trial Court having



appreciated that ample opportunities were granted to the petitioners earlier which was not utilized by them has rejected the said application vide impugned order on payment of costs of Rs.1,000/-.

8. In my considered opinion, though the petitioners were granted opportunity to cross-examine P.W.1 to P.W.3 a liberal view has to be taken considering the nature of the relief sought for in the suit. The inconvenience caused to the plaintiffs if any, can be compensated and the petitioners can be put to strict terms so that they do not make any attempt unnecessarily for prolonging the litigation. If an opportunity to cross-examine P.W.1 to P.W.3 is not granted, the case of the petitioners is likely to be prejudiced.

8. Under the circumstances, I am of the opinion that, if the petitioners are granted an opportunity to cross-examine P.W.1 to P.W.3 by putting them to strict terms by imposing appropriate costs on them, the same would serve the ends of justice.

9. Accordingly the following:



ORDER

(i) The writ petition is allowed, subject to payment of costs of Rs.10,000/- which shall be paid by the petitioners to the plaintiff before the trial Court on the next date of hearing;

(ii) I.A.No.3 filed by the petitioners in O.S.No.333/2018 under Order 18 Rule 17 read with Section 151 of CPC., is allowed and permission is granted to the petitioners to cross-examine P.W.1 to P.W.3;

(iii) It is made clear that, cross-examination of P.W.1 to P.W.3 on behalf of the petitioners shall be completed on the next two dates of hearing before the trial Court if P.W.1 to P.W.3 are kept present before the trial Court on the said dates of hearing;



(iv) The trial Court shall not grant any further adjournment to cross-examine P.W.1 to P.W.3 unless the petitioners make out a case for adjournment which would be beyond their control;

(v) It is needless to state that, the trial Court shall make all efforts to dispose of the suit on merits as expeditiously as possible.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE