



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 201378 OF 2026 (GM-CPC)

BETWEEN:

SRI. GURULINGAPPA
S/O. SIDDAPPA BIRADAR
AGE: 58 YEARS, OCC: BUSINESS AND
AGRICULTURE,
R/O. BALLUNDAGI, TQ JEVARAGI AND ALSO NEAR
BABALESHWAR NAKA, JAMAKHANDI ROAD,
BIJAPUR.

...PETITIONER

(BY SRI. B. BHIMASHANKAR.,ADVOCATE)

AND:

1. SRI. HANAMANTRAY @ HANAMANTAPPA
S/O REVANASIDDAPPA BIJAPUR,
AGE: 70 YEARS, OCC: AGRICULTURE,
2. SRI MALAKAJAPPA
S/O. REVANASIDDAPPA BIRADAR,
SINCE DECEASED BY HIS L.RS.
- 2A) GURULINGAWWA
W/O. MALAKAJAPPA BIRADAR
AGE: 63 YEARS, OCC: H.H. WORK,

Digitally signed
by SACHIN
Location: HIGH
COURT OF
KARNATAKA



- 2B) ANUSUBAI
W/O. REVANASIDDAPPA BIRADAR,
AGE: MAJOR, OCC: H.H. WORK
- 2C) SIDDAPPA
S/O. MALAKAJAPPA BIRADAR,
AGE: 43 YEARS, OCC: AGRICULTURE
- 2D) SRI RUDRAPPA
S/O MALAKAJAPPA BIRADAR
AGE: 41 YEARS, OCC: AGRICULTURE
- 2E) SRI SHIVAPPA
S/O MALAKAJAPPA BIRADAR,
AGE: 41 YEARS, OCC: AGRICULTURE.
- 2F) SMT SUJNANI
D/O MALAKAJAPPA BIRADAR,
AGE: 37 YEARS, OCC: AGRICULTURE.
- 2G) SMT. BOURAMMA
D/O MALAKAJAPPA BIRADAR,
AGE: 33 YEARS, OCC: AGRICULTURE,
- 2H) SIDDAMMA D/O MALKAJAAPPA,
AGE: 33 YRS, OCC: AGRI,

ALL ARE RESIDING AT BELLUNDAGI VILLAGE,
TQ. JEWARGI, DIST. KALABURAGI.

- 3) SRI.SUBBANNA S/O. MUTTAPPA BIRADAR,
AGE: 60 YEARS, OCC: AGRICULTURE,
- 3A) SMT. KAMALABAL
W/O SUBBANNA BIRADAR,
AGE: 60 YRS, OCC: HOUSEHOLD,
- 3B) BASAWARAJ
S/O SUBBANNA BIRADAR,
AGE: 40 YEARS, OCC: AGRI,



- 3C) RUDRAGONDA S/O SUBBANNA BIRADAR,
AGE: 38 YEARS, OCC: AGRI,
- 3D) SHARANAGONDA
S/O SUBBANNA BIRADAR,
AGE: 36 YRS, OCC: AGRI,
ALL ARE R/O BALLUNDAGI, TQ. JEWARGI.
- 3E) SMT. BHAGAMMA
D/O SUBHANNA BIRADAR,
AGE: 35 YEARS OCC: HOUSEHOLD,
R/O KACHAPUR, TQ. SHURPUR.
- 3F) SRI. MANJUNATH
S/O SUBANNA BIRADAR,
AGE: 32 YEARS, OCC:, AGRI,
R/O BALLUNDAGI,
TQ JEWARGI.
- 4 SRI. MAHANTAPPA S/O MUTTAPPA BIRADAR,
SINCE DECEASED BY HIS L.RS.,
- 4A) BHAGAWANTRAY
S/O MAHANTAPPA BIRADAR,
AGE: 30 YEARS, OCC: SERVICE,
- 4B) ISHANNA
S/O MAHANTAPPA BIRADAR,
AGE: 24 YEARS, OCC: AGRICULTURE,
- 4C) SUMITRABAI
W/O MAHANTAPPA BIRADAR,
AGE: 50 YEARS, OCC: H.H. WORK,
- 4D) SIDDAPPA
S/O MAHANTAPPA BIRADAR,
AGE: 21 YEARS, OCC: AGRICULTURE,
- 4E) REVAMMA D/O MAHANTAPPA BIRADAR,
HUDG/AGE: 19 YEARS, OCC. H.H. WORK.



ALL ARE R/O BALLUNDAGI VILLAGE, TQ. JEWARGI,
DIST. GULBARGA.

- 5) BHIMARAY
S/O MUTTAPPA BIRADAR,
AGE: 57 YEARS, OCC: AGRICULTURE,
ALL ARE R/O. BELLUNDAGI, TQ JEVARAGI,
DIST GULBARGA

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, A) ISSUE A WRIT IN THE NATURE OF CERTIORARI AND QUASH THE ORDER DATED 02-07-2025 PASSED IN OS NO.92/2023 BY THE LEARNED SENIOR CIVIL JUDGE JEWARGI, IN SO FAR AS IT DIRECTS INSSUANCE OF SUMMONS TO THE LRS OF DEFENDANT NO.3 (D3 (a) TO D3(f) AND HOLD THAT ISSUANCE OF SUMMONS TO LRS OF D3 IS UNNECESSARY IN VIEW OF REPRESENTATION ALREADY MADE BY THE COUNSEL ON THEIR BEHALF AS PRODUCED AT ANNEXURE-B) PASS ANY OTHER APPROPRIATE ORDER OR DIRECTION THAT THIS HONOURABLE COURT DEEMS FIT.

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

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

ORAL ORDER

1. Petitioner is before this Court under Article 226 of the Constitution of India seeking for the following reliefs.

- a) *Issue a writ in the nature of certiorari and quash the order dated 02.07.2025 passed in O.S.No.92/2023*



by the learned Senior Civil Judge, Jewargi, insofar as it directs issuance of summons to the LRs of Defendant No.3(a) to Defendant(f) and hold that issuance of summons to LRs of D3 is unnecessary in view of representation already made by the counsel on their behalf as produced at Annexure.

- b) *Pass any other appropriate order or direction that this Hon'ble Court deems fit in the interest of justice and equity".*

2. The petitioner has filed O.S.No.92/2023 before the jurisdictional civil Court at Jewargi seeking the relief of partition and separate possession of the suit schedule property. It appears that during the pendency of the suit, defendant no.3 had died. I.A.No.IV was filed by the petitioner / plaintiff to bring the legal representatives of deceased defendant no.3 on record. The proposed legal representatives had entered appearance before the trial Court on 17.06.2025 and their learned counsel had stated that he has no objection to allow I.A.No.IV. Accordingly, on 17.06.2025, the trial Court allowed I.A.No.IV and the proposed legal representatives of deceased defendant no.3 were permitted to be brought on record as defendant no.3(a) to 3(f) and a direction was issued to the plaintiff to amend the cause title of the plaint and the matter



was posted to 02.07.2025. On 02.07.2025, necessary amendment was carried out in the cause title of the plaint and amended plaint copy also was filed by the counsel for the plaintiff. The trial Court however issued summons to the legal representatives of defendant no.3 once again vide the impugned order dated 02.07.2025. It is under these circumstances, the plaintiff is before this Court.

3. Since the application I.A..No.IV filed by the plaintiff to bring the legal representatives of deceased defendant no.3 was allowed on 17.06.2025, after the proposed legal representatives of defendant no.3 had entered appearance and had submitted that they have no objection to allow I.A.No.IV, there was no necessity for the trial judge to once again issue summons to the legal representatives of deceased defendant no.3 on 02.07.2025. Under the circumstances, the impugned order dated 02.07.2025, insofar as it relates to issuing summons to the legal representative of defendant no.3, needs to be set aside.

4. Accordingly, the following:-



ORDER

Writ petition is allowed and the impugned order at Annexure - B dated 02.07.2025 passed in OS No.92 of 2023 by the Court of Senior Civil Judge & JMFC, Jewargi, insofar as it relates to issuing summons to the legal representatives of deceased defendant no.3 is quashed.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

NMS
List No.: 1 Sl No.: 16