



**IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH**

**DATED THIS THE 23<sup>RD</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY**

**WRIT PETITION NO. 201473 OF 2026 (GM-CPC)**

**BETWEEN:**

1. TAUQEER ALAM  
S/O LATE MD MOINUDDIN  
AGED ABOUT 41 YEARS,  
OCC AGRICULTURE  
R/O H NO 17, 32/1  
OLD MAILLOOR  
TQ AND DIST BIDAR

2. MOHD JAVED AHMED  
S/O LATE MD MOINUDDIN  
AGED ABOUT 46 YEARS,  
OCC AGRICULTURE  
R/O H NO 17,32/1  
OLD MAILLOOR  
TQ AND DIST BIDAR

3. MOHD SHAKEEL AHMED  
S/O LATE MD MOINUDDIN  
AGED ABOUT 41 YEARS,  
OCC AGRICULTURE  
R/O H NO 17,32/1  
OLD MAILLOOR  
TQ AND DIST BIDAR

MOHD. TANVEER ALAM  
S/O LATE MD. MOINUDDIN  
SINCE DECEASED BY HIS LRS

4. SAMEERA BEGUM  
W/O MOHD. TANVEER ALAM,  
AGED ABOUT 37 YEARS,





OCC. HOUSEHOLD,  
R/O. H.NO. 17, 32/1,  
OLD MAILLOOR,  
TQ. AND DIST. BIDAR.

5. SOHA  
D/O MOHD. TANVEER ALAM,  
AGED ABOUT 16 YEARS,  
OCC. STUDENT,  
R/O. H.NO. 17, 32/1,  
OLD MAILLOOR,  
TQ. AND DIST. BIDAR.
6. SABIYA @ SABIRA  
D/O MOHD. TANVEER ALM,  
AGED ABOUT 15 YEARS,  
OCC. STUDENT,  
R/O. H.NO.17 32/1,  
OLD MAILLOOR,  
TQ. AND DIST. BIDAR.
7. TOUSHEED ALAM  
S/O MOHD. TANVEER ALM,  
AGED ABOUT 08 YEARS,  
OCC. STUDENT,  
R/O. H.NO. 17, 32/1,  
OLD MAILLOOR,  
TQ. AND DIST. BIDAR.

...PETITIONERS

(BY SRI. RAVI B PATIL, ADV.)

**AND:**

MOHAMMED MOHIUDDIN  
S/O LATE MOHAMMED SIRAJUDDIN,  
AGED ABOUT 51 YEARS,  
OCC. AGRICULTURE,  
R/O. H.NO. 4-1-78, OLD MAILLOOR,  
TQ. AND DIST. BIDAR.

...RESPONDENT

(BY SRI. LIYAQAT FAREED, ADV.)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED  
17.03.2026 PASSED IN O.S.NO.44/2019 BY THE COURT OF



PRINCIPAL SENIOR CIVIL JUDGE AND CJM AT BIDAR AS AT ANNEXURE-J AND CONSEQUENTIALLY TO SET ASIDE THE ORDER DATED 20.03.2019 ADJUSTING THE COURT FEE PAID IN THE EARLIER SUIT IN OS NO. 38/2018 TOWARDS THE COURT FEE PAYABLE IN OS NO. 44/2019 AS AT ANNEXURE-B AS ILLEGAL AND ARBITRARY IN NATURE & ETC.

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

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

**ORAL ORDER**

1. This writ petition under Article 227 of the Constitution of India is filed by the contesting defendants with a prayer to quash the order at Annexure-J dated 17.03.2026 passed in O.S.No.44/2019 by the Court of Prl. Senior Civil Judge & CJM, Bidar.
2. Heard the learned Counsel for the parties.
3. Respondent herein has filed a suit in O.S.No.44/2019 before the jurisdictional Civil Court at Bidar seeking the relief of specific performance and also to declare that the judgment and decree dated 10.09.2018 passed in O.S.No.166/2013 by the Court of Prl. Senior Civil Judge, Bidar, is null and void and not binding on the plaintiffs.



4. In the said suit, the Trial Court had passed an order on 20.03.2019 permitting the plaintiff to adjust the court fee paid by him in O.S.No.38/2018 which was earlier filed before the said court seeking similar relief, after the plaint in the said suit was rejected on the ground that the suit was undervalued and proper court fee was not paid. It appears that the contesting defendants had filed IA.no.7 under Section 151 CPC with a prayer to recall the said order dated 20.03.2019 passed by the Trial Court in O.S.No.44/2019 permitting the plaintiff to adjust the court fee paid by him in the earlier suit. The Trial Court has rejected IA.no.7 vide the order impugned and aggrieved by the same, the contesting defendants are before Court.

5. Perusal of the material on record would go to show that the respondent herein who is the plaintiff before the Trial Court had earlier filed O.S.No.38/2018 before the said court seeking the very same relief which is sought for in O.S.No.44/2019. The plaint in O.S.No.38/2018 was rejected on 12.10.2018 on the ground that the suit was undervalued and deficit court fee was not paid. Subsequently, the plaintiff had filed an application in O.S.No.38/2018 to restore the suit and permit him to pay the



deficit the court fee, but the said application was rejected by the Trial Court after hearing both sides by order dated 02.01.2019 which has attained finality. Thereafter, the present suit was filed by the plaintiff in O.S.No.44/2019 and the Trial Court on the request of the plaintiff had permitted him to adjust the court fee paid by him in O.S.No.38/2018 as court fee in O.S.No.44/2019 by order dated 20.03.2019. It is this order which was sought to be recalled by the contesting defendants by filing IA.no.7 before the Trial Court.

6. The Trial Court placing reliance on the judgment of the High Court of Kerala in the case of **GOPALA KRISHNA PILAI VS NARAYANA – AIR 1959 KERALA 406**, has rejected IA.no.7 with an observation that court fee paid in the earlier suit can be adjusted towards court fee in the subsequent suit filed by the very same plaintiff. The judgment in the Gopala Krishna Pilai's case supra has been subsequently overruled by the Division Bench of Kerala High Court in the case of **MABLE VS DOLORES & ANOTHER – AIR 2001 KER 353**. Under the circumstances, I am of the opinion that the impugned order at Annexure-J dated



17.03.2026 passed on IA.no.7 in O.S.No.44/2019 by the Trial Court, cannot be sustained. Accordingly, the following order:

7. Writ petition is allowed. The impugned order dated 17.03.2026 passed on IA.no.7 in O.S.No.44/2019 by the Court of Prl. Senior Civil Judge & CJM, Bidar, at Annexure-J, is set aside, and the matter is remitted to the Trial Court to consider IA.no.7 afresh in accordance with law.

**Sd/-**  
**(S.VISHWAJITH SHETTY)**  
**JUDGE**

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