



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 201645 OF 2026 (GM-CPC)

BETWEEN:

SMT.KANTAMMA
W/O RAMLING GUNJNOOR,
AGE : MAJOR, OCC AGRICULTURE,
R/O MOGLA, TQ.CHITTAPUR,
DIST. KALABURAGI - 585211.

...PETITIONER

(BY SRI. JAGADEV H.S., ADVOCATE)

AND:

1. SMT.KULSUMBEE W/O RASHID MIYA,
D/O USMANSABASAR, AGE : 43 YEARS,
OCC: HOUSEHOLD, R/O DANDOTI,
TQ CHITTAPUR, DIST. KALABURAGI.
2. SRI MAQBOOL S/O USMANSABASAR,
AGE MAJOR, OCC AGRICULTURE AND COOLIE,
R/O DIGGON, PRESENTLY RESIDING AT
BIDRALLI, BANGALORE.
3. SMT. RASOOLBEE W/O DASTAGIR,
D/O USMANSABASAR, AGE : MAJOR,
OCC : HOUSEHOLD, R/O RATKAL,
TQ. CHITTAPUR, DIST. KALABURAGI.





4. CHANDBEE W/O USMANSABASAR,
AGE : 60 YEARS, OCC : AGRICULTURE,
R/O DIGGON, TQ. CHITTAPUR,
DIST. KALABURAGI.
5. MD.HUSSAIN S/O USMANSABASAR,
AGE : 32 YEARS OCC : AGRICULTURE,
R/O DIGGON, TQ. CHITTAPUR,
DIST KALABURAGI.
6. LALBEE W/O USMANSABASAR,
AGE : 32 YEARS, OCC : AGRICULTURE,
R/O DIGGON, TQ. CHITTAPUR,
DIST : KALABURAGI.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO I) ISSUE WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 07-03-2026 IN EX NO.83/2024 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, CHITTAPUR ANNEXURE-G AND ALLOW THE SAME, IN THE INTEREST OF JUSTICE AND EQUITY; II) ANY OTHER ORDER OR ORDERS AS THIS HONOURABLE COURT DEEMS FIT IN THE FACTS AND CIRCUMSTANCES OF THE CASE BE PASSED IN FAVOUR OF PETITIONER.

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

Judgment Debtor-4 is before this Court under Article 227 of the Constitution of India seeking for the following reliefs:



- i) Issue writ of certiorari quashing the impugned order dated 07-03-2026 in Ex.No.83/2024 passed by the Senior Civil Judge and JMFC, Chittapur Annexure-G and allow the same, in the interest of justice and equity;
- ii) any other order or orders as this Hon'ble court deems fit in the facts and circumstances of the case be passed in favour of petitioner.

2. Heard the learned counsel for the petitioner.

3. Respondent Nos.1 to 3 have filed O.S.No.82/2017 before the jurisdictional Civil Court at Chittapur seeking the relief of partition and separate possession of the suit schedule property and also to declare the sale-deed dated 26.12.2013 as null and void. Petitioner who had purchased the portion of the suit schedule property under the aforesaid sale deed dated 26.12.2013 was arrayed as defendant No.4 in O.S.No.82/2017. The said suit was decreed on 16.11.2018. Plaintiffs in O.S.No.82/2017 who are the respondent Nos.1 to 3 herein had thereafter initiated final decree proceedings before the Trial court in FDP No.4/2019 and even in the said proceedings, petitioner was arrayed as respondent No.4. FDP No.4/2019 was



allowed by the Trial Court on 13.06.2023 and thereafter the decree holder had initiated execution proceedings in E.P.No.83/2024 before the Trial Court and in the said proceedings I.A.No.3 was filed under Order 21 Rule 26 read with Section 151 of Code of Civil Procedure by the petitioner herein with a prayer to stay the further proceedings and also to recall the delivery warrant issued by executing Court. The said application has been opposed by the decree holder by filing objections. The Trial Court has rejected the said application vide the order impugned dated 07.03.2026 at Annexure-G. Assailing the same, the petitioner is before this Court.

4. Learned counsel for the petitioner submits that petitioner was placed exparte in O.S.No.82/2017 and also in FDP No.4/2019. Only after delivery warrant was issued in the execution proceedings, she came to know about the decree passed in O.S.No.82/2017. He submits that the petitioner has filed Misc.No.4/2025 before the Trial Court with a prayer to set-aside the exparte judgment and



decree passed in O.S.No.82/2017 and the exparte final decree dated 13.06.2023 passed in FDP No.4/2019. Pending disposal of the said proceedings, if the executing Court proceeds further, the petitioner would be put to untold hardship.

5. Perusal of the material on record would go to show that the petitioner who is said to be the purchaser of the portion of the suit schedule property under registered sale-deed dated 26.12.2013, executed in her favour by the defendant No.1 in O.S.No.82/2017 was arrayed as defendant No.1 in the said suit, wherein a prayer was made to declare the said sale-deed as null and void. In spite of service of notice in O.S.No.82/2017, the petitioner had not participated in the said proceedings and therefore, she was placed exparte by the trial court. It appears that even in final decree proceedings, the petitioner was placed exparte since she has not appeared before the trial Court in spite of service of notice. The executing Court having appreciated the aforesaid aspects



of the matter and also on the ground that the executing Court cannot go beyond the decree which is sought to be executed, has rightly rejected I.A.No.3 filed on behalf of the petitioner to stay the execution proceedings and also to recall the delivery warrant. I do not find any illegality or infirmity in the said order.

6. It appears that subsequent to dismissal of I.A.No.3, petitioner had filed an application under Section 47 read with Section 151 of CPC wherein a similar prayer was made to recall the delivery warrant dated 14.08.2025. The executing Court has rightly rejected even the said application vide order at Annexure-G1 dated 07.03.2026 passed in E.P.No.83/2024.

7. Since the petitioner has already filed Misc.No.4/2024 before the Trial Court with a prayer to set aside the exparte judgment and decree dated 16.11.2018 passed in O.S.No.82/2017 and the exparte final decree in FDP No.4/2019 dated 13.06.2013, it is for the petitioner to file necessary application before the Trial Court in the said



proceedings and seek necessary relief to protect her interest. At this juncture, learned counsel for the petitioner submits that application has been already filed in Misc.No.4/2025 seeking necessary relief, but the Trial Court has not considered the same.

8. Under the circumstances, this writ petition is ***disposed of*** with liberty to the petitioner to pursue her remedy before the Trial Court in Misc.No.4/2025. If the petitioner has filed any interim application in Misc.No.4/2025, the Trial Court shall consider the same in accordance with law and pass appropriate orders, as expeditiously as possible.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE