



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 201713 OF 2026 (GM-CPC)

BETWEEN:

K.BHIMANNA S/O K MUDDURANGAPPA,
AGE : 55 YEARS, OCC : BUSINESS,
R/O K M COLONY, MANTRALAYAM ROAD,
RAICHUR 584101.

...PETITIONER

(BY SRI. NARENDRA M.REDDY.,ADVOCATE)

AND:

RAJENDRA KUMAR PATIL,
S/O VITHAL RAO PATIL,
AGE : 63 YEASR, OCC : BUSINESS,
R/O KALLOOR COLONY,
RAICHUR 584101.

...RESPONDENT

(BY SRI. SHANAWAZ MAMDAPUR, ADVOCATE)

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 / SET ASIDE THE IMPUGNED ORDER ON I.A.NO.III DATED 04.04.2026 VIDE ANNEXURE-K PASSED BY THE ADDL. SENIOR CIVIL JUDGE AND JMFC-I RAICHUR AND II) ISSUE A WRIT IN THE NATURE OF MANDAMUS TO ALLOW THE APPLICATION IN I.A.NO.III VIDE ANNEXURE-H and III) ISSUE ANY OTHER SUITABLE WRIT OR ORDER OR DIRECTION WHICH THE HONOURABLE COURT MAY DEEMS FIT IN THE





CIRCUMSTANCES OF THE CASE AS STATED ABOVE IN THE INTEREST OF JUSTICE AND EQUITY.

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 is before this Court 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 / set aside the impugned order on I.A.No.III dated 04.04.2026 vide Annexure-K passed by the Addl. Senior Civil Judge and JMFC-I Raichur;
- ii) Issue a writ in the nature of mandamus to allow the application in I.A.No.III vide Annexure-H and
- iii) Issue any other suitable writ or order or direction which the Hon'ble court may deems fit in the circumstances of the case as stated above in the interest of justice and equity.

2. Heard the learned counsel for the petitioner and learned counsel Sri Shanawaz Mamdapur who has appeared on behalf of respondent – Decree holder.



3. Perusal of the material on record would go to show that vendor of the decree holder had filed O.S.No.24/2000 before the jurisdictional Civil Court seeking the relief of partition and separate possession of the suit schedule property. The said suit was decreed on 08.02.2016 and the said judgment and decree was confirmed by the Division Bench of this Court in RSA No.660/2006 by order dated 25.11.2010. It appears that the Hon'ble Supreme Court has also confirmed the judgment and decree passed in O.S.No.24/2000 and subsequently the decree holder had also initiated final decree proceedings in FDP No.5/2011 and the order passed in the said proceedings also had attained finality. Thereafter, the decree holder has filed execution petition in E.P.No.104/2025 before the Trial Court to execute the final decree passed in FDP No.5/2011 and in the said proceedings, the petitioner who is the judgment debtor has filed an application to stay the further proceedings in the execution case. The said application was opposed by



the decree holder. The trial court vide the order impugned has rejected the said application. Aggrieved by the same, the judgment debtor is before this Court.

4. The contention raised by the petitioner before the executing Court is that a separate suit has been now filed by his children seeking partition and separate possession of the property which are subject matter of the execution case and therefore pending consideration of the said suit, the further proceedings in the execution case should be stayed. The executing court is bound by the decree which is sought to be executed by it. Unless there is any stay of the said decree by a higher court or by the court which has passed the said decree, the executing Court is bound by the decree and therefore the executing court was justified in rejecting the application filed by the petitioner to stay the further proceedings in the execution case, merely for the reason that the children of the judgment debtor have now filed a separate suit seeking partition of the properties which were subject matter of



O.S.No.64/2024. The judgment and decree passed in the said suit and also final decree passed in FDP No.5/2011 has attained finality and the Hon'ble Supreme Court has confirmed the same. Under the circumstances, I do not find any illegality or irregularity in the order impugned in this writ petition. Accordingly, the writ petition is ***dismissed.***

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SN
List No.: 1 Sl No.: 23