



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 202799 OF 2022 (GM-CPC)

BETWEEN:

1. ABDULSAB S/O KAJASAB,
AGE: 65 YRS, OCC: AGRI,
R/O VILLAGE, RAJOLI, TQ. MANVI,
DIST RAICHUR.
2. MEHABOOB BEE W/O LATE KHAJA HUSSAIN,
AGE: 84 YRS, OCC: HOUSEHOLD,
R/O VILLAGE RAJOLI, TQ. MANVI,
DIST. RAICHUR.
3. MEHABOOB BEE @ KUNNAMMA
D/O LATE KHAJASAB,
AGE: 79 YRS, OCC: HOUSEHOLD,
R/O VILLAGE RAJOLI, TQ. MANVI,
DIST. RAICHUR.
4. KHADRARAMMA @ HAZARBEE
W/O LATE KASIMSAB,
AGE: 77 YRS, OCC: HOUSEHOLD,
R/O MOTHER TRUST CHURCH, RAICHUR.

Digitally signed by
NIJAMUDDIN
JAMKHANDI
Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI. SHIVANAND PATIL, ADVOCATE)



AND:

1. IMAMSAB S/O SANNA KATALASAB,
AGE: 74 YRS, OCC: AGRI.
R/O NEAR DIWANI PEER DARGA, KURDI,
TQ. MANVI, DIST. RAICHUR-584123,
SMT. KAHAJABEE W/O LATE KAJASAB,
SINCE DECEASED BY HER LRS.
2. SAVERA W/O KASIM ALI,
AGE: 47 YRS, OCC: HOUSEHOLD,
R/O VALLUR MOHALA IGREE TOWN,
DIST. GADWAL, TELANGANNA-509125.
3. ZUBEDA W/O LALA,
AGE: 47 YRS, OCC: HOUSEHOLD,
R/O VALLUR MOHALA IGREE TOWN,
DIST GADWAL, TELANGANNA 509125.
4. MAQBULASAB S/O LATE KASIMSAB,
AGE: 57 YRS, OCC: AGRI,
R/O VILLAGE RAJOLI TQ. MANVI,
DIST. RAICHUR- 584123.
5. GOUSE MOINUDDIN S/O LATE KASIMSAB,
AGE: 53 YRS, OCC: AGRI,
R/O VILLAGE RAJOLI TQ. MANVI,
DIST. RAICHUR- 584123.
6. SHAMSUDDIN S/O LATE KASIMSAB,
AGE: 50 YRS, OCC: AGRI,
R/O VILLAGE RAJOLI TQ. MANVI,
DIST. RAICHUR- 584123.
7. BADESAB S/O LATE KASIMSAB,
AGE: 47 YRS, OCC: AGRI,
R/O VILLAGE RAJOLI TQ. MANVI,
DIST. RAICHUR-584123,
BANDENAWAZ S/O LATE BASHU,
SINCE DECEASD BY HIS LR'S.



8. SMT. ABIDABEGUM WO LATE BANDENAWAZ,
AGE: 53 YRS, OCC: HOUSEHOLD,
R/O GILESUGUR CAMP, DIST. RAICHUR- 584101.
9. GOUSIA D/O LATE BANDENAWAZ,
AGE: 53 YRS, OCC; HOUSEHOLD,
R/O GILESUGUR CAMP, DIST. RAICHUR- 584101.
10. PEER PASHA S/O LATE BANDENAWAZ,
AGE: 53 YRS, OCC: HOUSEHOLD,
R/O GILESUGUR CAMP,
DIST. RAICHUR-584123.
11. NAFISA D/O LATE BANDENAWAZ
AGE: 53 YRS, OCC: HOUSEHOLD,
R/O GILESUGUR CAMP,
DIST. RAICHUR- 584101.
12. RUKUNUDDIN S/O LATE BASHU,
AGE: 47 YRS, OCC: GOVT EMPLOYEE,
R/O PEON IN DEPUTY COMMISSIONER OFFICE,
KOPPAL TQ. AND DIST KOPPAL- 583231.

MEHABOOB S/O LATE BASHU,
SINCE DECEASED BY HIS LRS.
13. RIZWANA BEGUM W/O MAHABOOB,
AGE: 46 YRS, OCC: HOUSEHOLD,
R/O NEAR NADAKARALAYA,
GILESUGUR VILLAGE,
TQ AND DIST RAICHUR- 584101.
14. LATIF S/O MAHABOOB,
AGE: 24 YRS,
R/O NEAR NADAKARALAYA,
GILESUGUR VILLAGE,
TQ AND DIST RAICHUR- 584101.
15. MOSIN S/O MAHABOOB
AGE: 24 YRS,



R/O NEAR NADAKARALAYA,
GILESUGUR VILLAGE,
TQ AND DIST RAICHUR- 584101.

...RESPONDENTS

(BY SRI J. AUGUSTIN, ADVOCATE FOR R1;
V/O DTD.17.11.2022 NOTICE TO R2 TO R15 IS
DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, A) A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER WRIT OR ORDER OF THE LIKE NATURE AND SET ASIDE THE IMPUGNED ORDER DATED 26.09.2022 ON I.A XVIII IN OS NO.168/2013 OF THE FILE OF CIVIL JUDGE AND JMFC MANVI AS PER ANNEXURE- E AND RESULTANTLY ALLOW THE SAID IA XVIII OF THE PETITIONER. B) PASS ANY OTHER ORDER OR DIRECTION AS THE HON'BLE COURT DEEMS FIT IN THE CIRCUMSTANCE OF THE CASE.

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

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

ORAL ORDER

1. Plaintiffs are before this Court in this writ petition under Article 227 of the Constitution of India with a prayer to quash the order dated 26.09.2022 passed on I.A.No.XVIII in



O.S.No.168/2013 by the Court of Civil Judge & JMFC, Manvi vide Annexure-E.

2. Heard the learned counsel for the parties.

3. The petitioners have filed O.S.No.168/2013 before the jurisdictional civil Court, Manvi seeking relief of declaration and permanent injunction in respect of suit schedule property. It is the case of the petitioners that the suit schedule property was allotted to them under Ex.P1 and Ex.P2, which are memorandum of family settlement. Ex.P.3 is the application jointly filed by the plaintiffs and defendant no.1 for change of entries in the revenue records of the suit schedule property based on Ex.P.1 and Ex.P.2. Since defendant no.1 has denied execution of aforesaid three documents, the plaintiffs have filed application under Section 45 of the Indian Evidence Act with a prayer to forward the dispute signature of defendant no.1 in Ex.P.1 to 3 along with his admitted signatures found in his written statement, vakalath and also with his specimen signature for expert opinion. The said application was opposed by defendant no.1 by filing objection. The Trial Court vide the



order impugned has rejected the said application i.e., I.A.No.XVIII. Aggrieved by the same, the plaintiffs / petitioners are before this Court.

4. Perusal of order impugned would go to show that, the Trial Court has proceeded to consider application filed by the plaintiffs under Section 45 of the Indian Evidence Act on the ground that Ex.P1 and 2 are the documents, which are hit by Section 17 of the Registration Act, 1908 and these also attracts stamp duty and penalty under the Karnataka Stamp Act.

5. The Trial Court has observed that since the documents in question are compulsorily registrable documents and also attracts payment of stamp duty the same cannot be looked into and therefore, the prayer made by the petitioners in I.A.No.XVIII under Section 45 of the Indian Evidence Act cannot be considered. The said approach of the Trial Court is completely erroneous and illegal. If the Trial Court is of the opinion that the documents are compulsorily registrable documents and it also attracts stamp duty under the Karnataka



Stamp Duty Act, 1957, it is for the Trial Court to pass appropriate order suo-motu or on application filed by the parties to the suit. In the present case, no such orders have been passed by the Trial Court and on the other hand on the application filed by the plaintiffs under Section 45 of the Indian Evidence Act, the trial Court has proceeded to consider whether the said documents are compulsorily registrable documents and whether the said documents attract stamp duty. All that Trial Court was required to consider is the prayer made in the application under Section 45 of the Indian Evidence Act to refer the documents to a handwriting expert for the purpose of comparing the disputed signature of defendant no.1 in Exs.P1 to 3 with his admitted and specimen signatures.

6. In my considered opinion since the plaintiffs claim right over the suit schedule property based on Exs.P1 to 3 and since defendant no.1 has now disputed his signature in the said documents for the purpose of proper adjudication of the dispute involved in the case, the Trial Court ought to have forwarded the disputed signature of defendant no.1 in Exs.P.1 to 3 to an



handwriting expert to compare the same with the admitted and specimen signature of defendant no.1.

7. Accordingly, the following :-

ORDER

- i) Writ petition is allowed.
- ii) The impugned order at Annexure-E dated 26.09.2022 passed on I.A.No.XVIII in O.S.No.168 of 2013 is quashed and the application filed by the petitioners under Section 45 of the Indian Evidence Act is consequently allowed.
- iii) It is made clear that, this order will not come in the way of contesting defendants to filing appropriate application before the Trial Court for impounding the documents on the ground that they are not properly stamped.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE