



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 13TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.G.S.KAMAL

WRIT PETITION NO. 202792 OF 2025 (GM-CPC)

BETWEEN:

VENKAT REDDY S/O LAXMAREDDY,
AGE: 34 YEARS, OCC: AGRICULTURE,
R/O. KANDKUR VILLAGE,
TQ. AND DIST. YADGIRI-585201.

...PETITIONER

(BY SRI LIYAQAT FAREED USTAD, ADVOCATE)

AND:

1. BANASHANKAR
S/O LATE MAHADEVAPPA MADIVAL,
AGE: 35 YEARS, OCC: AGRICULTURE, COOLI,
R/O. YALASATTI VILLAGE,
TQ. AND DIST. YADGIRI-585201.
2. DEVAPPA @ DEVINDRAPPA,
S/O LATE MAHADEVAPPA MADIVAL,
AGE: 61 YEARS, OCC: AGRICULTURE,
R/O. YALASATTI VILLAGE,
TQ. AND DIST. YADGIRI-585201.
3. BHADRAPPA
S/O LATE MAHADEVAPPA MADIVAL,
AGE: 40 YEARS, OCC: AGRICULTURE, COOLI,
R/O. YALASATTI VILLAGE,
TQ. AND DIST. YADGIRI-585201.

Digitally signed
by SACHIN
Location: HIGH
COURT OF
KARNATAKA



SMT. GOVINDAMMA
W/O LATE BALAPPA MADIVAL,
DEAD BY LRS.
I.E., RESPONDENT NOS. 4 AND 5.

4. KUMARI TARA D/O LATE BALAPPA MADIVAL,
AGE: 19 YEARS, OCC: STUDENT,
R/O YALASATTI VILLAGE,
TQ. AND DIST. YADGIRI-585201.
5. KUMARI TANUSHA
D/O LATE BALAPPA MADIVAL,
AGE: 17 YEARS, OCC: STUDENT,
R/O. YALASATTI VILLAGE,
TQ AND DIST. YADGIRI-585201.

RESPONDENT 5 IS MINOR U/G OF
RESPONDENT NO 4.

SMT. MALLAMMA
W/O LATE MAHADEVAPPA MADIVAL,
(DIED).

...RESPONDENTS

(R5 IS MINOR U/G OF R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE THE WRIT IN NATURE OF CIRTIORARI AND TO QUASH THE ORDER DATED 08.09.2025 PASSED ON I.A NO.9 FILED U/SEC 151 OF CPC AND I.A NO.10 U/O 18 RULE 17 OF CPC, APPLICATION FILED BY THE DEFENDANT NO.7/PETITIONER IN OS NO.30/2016 PENDING BEFORE THE SENIOR CIVIL JUDGE AT YADGIRI VIDE ANNEXURE-G.

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



CORAM: HON'BLE MR. JUSTICE M.G.S.KAMAL

ORAL ORDER

(PER: HON'BLE MR. JUSTICE M.G.S.KAMAL)

The petitioner/defendant No.7 is before this Court with short grievance that he had filed applications in I.A.No.9 seeking permission to lead his further evidence and I.A.No.10 seeking to recall of PW.1 for further cross-examination, which were allowed by the Trial Court vide its order dated 08.09.2025, which reads as under:

"Learned counsel for the plaintiff is present and submits that IA No.9 and 10 may be allowed on cost. Heard. Perused the IA No.9 and 10 are allowed on cost of Rs.200/- each. Order dated 25.07.2025 is hereby partly set-aside and reopen the stage for evidence of defendant NO.7 and D7 is permitting to lead evidence. D7 is hereby directed to pay the cost of Rs.400/- to the advocate Bar Association. For evidence of D7.

Call on : 20.09.2025."

2. The ambiguity, which learned counsel for the petitioner is pointing out from the aforesaid order is that though the said applications in IAs.9 and 10 have been allowed on payment of cost of Rs.200/- each, the order



impugned does not explicitly mention, if the application in I.A.No.10 to recall the plaintiff's witness for further cross-examination is allowed or not. He submits that an attempt was made before the Trial Court to bring to its notice, about the anomaly. However, the Trial Court declined to clarify the same in view of petitioner already having been approached this Court. Therefore, he submits necessary clarification be made enabling the petitioner to proceed further before the Trial Court.

3. Heard.

4. From the perusal of the aforesaid order, it is clear that the petitioner/defendant No.7 had indeed filed application in I.A.No.9 seeking permission to lead his further evidence, while I.A.No.10 is filed seeking to recall PW-1 for further cross-examination. Though the impugned order categorically refers to both the applications having been allowed, upon the no objection indicated by the learned counsel for the plaintiff/respondent, on payment of cost of *Rs.200/- each* and the concluding part



of the impugned order also refers to petitioner/defendant No.7 herein having been directed to pay Rs.400/- as cost, the order is not clear as to whether the PW.1 has been recalled and directed to be present before the Court tendering himself for cross-examination. This explicit order to recall PW-1 is missing in the impugned order, though petitioner/defendant No.7 has been permitted to lead for other evidence. It is this error which has led to the anomalous situation constraining the petitioner to approach this Court.

5. The said issue ought to have been sorted out by the Trial Court at its end itself instead of constraining the parties to approach this Court.

6. However, since no rights of parties are being adjudicated in this writ petition and as the order of the Trial Court itself indicate that the counsel for the respondent-plaintiff had no objection in allowing the applications on payment of cost, this Court do not deem it



necessary to issue notice of this petition to the plaintiff-respondent.

7. Accordingly, the petition is disposed of.

8. The order impugned shall be read as PW-1 having been recalled for further cross-examination and the petitioner-defendant No.7 being permitted to lead evidence. The Trial Court may pass further orders in this regard for the purpose of convenience of the parties and for the records and proceed further in the matter.

Sd/-
(M.G.S.KAMAL)
JUDGE

SN/List No.: 1 SI No.: 8
CT:PK