NC: 2026:KHC-D:7831
WP No. 103227 of 2026

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 17TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 103227 OF 2026 (GM-CPC)

BETWEEN:

SMT. SAVITRI W/O. IRAPPA SANGAPUR,
AGE 65 YEARS,
OCC: HOUSE WIFE & AGRICULTURE,
R/O: VENKATESH NAGAR,
VIJAYAPUR-586101,
TQ. & DIST.: VIJAYPUR

... PETITIONER

(BY SRI. N. L. BATAKURKI, ADVOCATE)

MOHANKUMAR B SHELAR

Digitally signed by MOHANKUMAR B SHELAR
Location: High Court of Karnataka, Dharwad Bench
Date: 2026.06.18 15:20:37 +0530

AND:

1. SMT. NANDINI
   W/O. MAHESH BENAKATTI,
   AGE 33 YEARS,
   OCC: AGRICULTURE & HOUSEHOLD WORK,
   R/: ITNALLI-586101, TQ. & DIST.: VIJAYPUR.

2. VANKANAGOUDA
   S/O. RAMANGOUDA PATIL,
   AGE 35 YEARS, OCC: AGRICULTURE,
   R/O: TIMMAPUR-587313, TQ: MUDHOL,
   DIST: BAGALKOT.

3. SMT. MANDAKINI
   W/O. GIREPPAGOUDA PATIL,
   AGE 34 YEARS, OCC: HOUSEHOLD WORK,

3. PRUTHVI
S/O. GIREPPAGOUDA PATIL,
AGE 14 YEARS, OCC: STUDENT,

4. PRANATI
D/O. GIREPPAGOUDA PATIL,
AGE 12 YEARS, OCC: STUDENT,

ALL R/O: TIMMAPUR-587313, TQ: MUDHOL,
DIST: BAGALKOT,

SINCE RESPONDENT Nos.3 & 4 ARE MINORS
REP. BY THEIR NATURAL MOTHER
AND GUARDIAN RESP NO.2.

5. SMT. ASHWINI
D/O. SUBHASH POTRADDI
@ ASHWINI W/O VENKANGOUDA PATIL,
AGE 37 YEARS, OCC: HOUSEHOLD WORK,
R/O: SHIRABUR-586113,
TQ: BABALESHWAR,
DIST: VIJAYAPUR.

… RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI AND QUASH THE ORDER OF IA NO. IX IN O.S.NO.243/2022 DATED 04-03-2026 BY LEARNED PRL SENIOR CIVIL JUDGE AND JMFC MUDHOL. VIDE ANNEXURE-H AND CONSEQUENTLY THE APPLICATION AT ANNEXURE-F MAY KINDLY BE ALLOWED IN THE INTEREST OF JUSTICE AND EQUITY & ETC.

THIS PETITION, COMING ON FOR PRL. HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

1. The petitioner is aggrieved by the order passed on the impleading application, whereby the learned Judge has rejected the application filed by the petitioner to come on record in O.S. No.243 of 2022. The said order is impugned.

2. Heard the learned counsel for the petitioner and perused the order impugned.

3. The petitioner herein, based on an agreement to sell executed by his vendor, has filed a suit for specific performance in O.S. No.296 of 2023, while the vendor's family members are litigating in a partition suit pending in O.S. No.243 of 2022, which is filed by defendant No.4 in the present suit.

4. It appears that the non-alienating family members are permitted to come on record in the suit filed by the petitioner, which is one for specific enforcement of

contract. As a counterblast, the petitioner has also made an attempt to come on record in the partition suit, though his suit for enforcement of the agreement is pending consideration in O.S. No.296 of 2023.

5. This Court, in a catena of decisions, has consistently held that a stranger purchaser claiming under a co-sharer's sale of an undivided interest is neither a necessary nor a proper party to a suit for partition and separate possession. The rights, if any, acquired by such purchaser are always subject to the result of the partition proceedings and can be appropriately worked out at the stage of final decree proceedings. Equally, a person claiming under an agreement of sale does not acquire any right, title or interest in the suit property so as to seek impleadment in a partition suit. The *lis* in a partition suit is essentially among the co-parceners/co-owners, and the presence of a stranger purchaser or an agreement holder is not necessary for effective and complete adjudication of the issues arising therein.

6. In the present case, the petitioner does not even stand on the footing of a purchaser under a registered conveyance. His claim is founded solely on an agreement of sale, which is the subject matter of adjudication in O.S. No.296 of 2023. The petitioner has yet to establish and secure enforcement of the alleged contractual right. Unless and until the petitioner succeeds in obtaining a decree for specific performance, he cannot claim any enforceable right in the suit schedule property. Therefore, this Court is of the view that the petitioner, being merely an agreement holder whose rights are yet to crystallize, is not a necessary party to the partition suit in O.S. No.243 of 2022.

7. However, it is made clear that the dismissal of the present petition and the continuance of the partition proceedings shall not prejudice the petitioner's claim in O.S. No.296 of 2023. Any preliminary decree that may be passed in O.S. No.243 of 2022 shall remain subject to the outcome of the suit for specific performance. In the event the petitioner succeeds in establishing the agreement and

secures a decree for specific performance, it would be open to him to work out such rights as may be available in law. Therefore, the drawing up of a preliminary decree in the partition suit shall not, by itself, extinguish or defeat the petitioner's prospective rights, if any, flowing from a decree that may ultimately be granted in the suit for specific performance.

8. For the reasons stated supra, this Court finds no infirmity in the order impugned. The writ petition being devoid of merit stands ***dismissed***. No order as to costs.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

VNP / CT: BCK
List No.: 1 Sl No.: 14