



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 26209 OF 2022 (GM-CPC)

BETWEEN:

1. SRI. K. V. RAMESH KUMAR,
S/O K.H.VINJARAJ,
AGED ABOUT 63 YEARS,
R/AT 3RD CROSS,
PANCHAVATHI COLONY,
SHIVAMOGGA - 577 201.

2. SRI. BABULAL KHOTHARI,
S/O K.H.VINJARAJ,
AGED ABOUT 65 YEARS,
R/AT 3RD CROSS,
PANCHAVATHI COLONY,
SHIVAMOGGA - 577 201.

...PETITIONERS

(BY SRI. G. LAKSHMEESH RAO., ADVOCATE)

AND:

1. SRI. ABDUL REHMAN,
S/O MOHAMMED ABDUL SAB,
AGED 70 YEARS,

2. SMT. HUMAYUN RAJIYA,
W/O ABDUL REHAMAN,
AGED ABOUT 60 YEARS,





3. SRI. ABDUL GHANI @
MAKSUD AHAMMED,
S/O ABDUL REHAMAN,
AGED ABOUT 43 YEARS,

4. SMT. BIBI FATHIMA BI @
KARISHMA BANU,
D/O ABDUL REHAMAN,
AGED ABOUT 38 YEARS,

5. SRI. MANSOOR,
S/O ABDUL REHAMAN,
AGED ABOUT 37 YEARS,

6. SRI. MUHIBULLA,
S/O ABDUL REHAMAN,
AGED ABOUT 35 YEARS,
ALL ARE RESIDING AT
M.K.K. ROAD,
SHIVAMOGGA - 577 201.

...RESPONDENTS

(NOTICE TO R1 HELD SUFFICIENT VIDE ORDER
DATED 13.03.2026;
NOTICE TO R2 TO 6 HELD SUFFICIENT VIDE ORDER DATED
08.04.2026)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED
ORDER DATED 27.10.2022 PASSED BY THE COURT OF V ADDL
CIVIL JUDGE AND JMFC, SHIVAMOGGA ON I.A.NO.IX IN
O.S.NO.830/2015 AS PER ANNEXURE- A AND THEREBY REJECT
THE SAID APPLICATION AND ETC.,

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



CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

1. This petition is filed challenging the Order dated 27.10.2022 passed by the V Additional Civil Judge and J.M.F.C, Shivamogga on I.A.No.IX in O.S.No.830/2015.

2. Sri G. Lakshmeesh Rao, learned counsel appearing for the petitioners submits that the petitioners have filed a suit for injunction against the respondents herein and in the said suit, petitioner No.2 has examined himself as PW1 before the Trial Court and thereafter, petitioner No.1 filed an affidavit in lieu of examination-in-chief which came to be opposed by the defendants and sought for striking off the evidence, in the present application which came to be allowed by the Trial Court solely on the ground that the affidavits of PW1 and PW2 are replica and same contents are found. It is further submitted that the Trial Court has failed to appreciate the fact that the petitioners are the two plaintiffs in the suit and they have an independent substantive right to adduce the evidence before the Trial



Court and more particularly, petitioner No.1 intend to produce registered sale deed dated 09.04.2007, pertaining to Schedule 'B' property and not allowing to adduce evidence would cause great prejudice to the plaintiffs. Hence, he seeks to allow the petition.

3. Though the notice is served on the respondents, there is no representation.

4. I have heard the arguments of learned counsel for the petitioners meticulously and perused the material available on record.

5. The petitioners have filed O.S.830/2015 for relief of permanent injunction against the defendants with regard to Schedule 'A' and Schedule 'B' properties. The assertion is made in the plaint that both the plaintiffs have acquired Schedule 'A' and Schedule 'B' properties vide a registered sale dated 09.04.2007 and they are in lawful possession and the defendants are interfering with such a possession. The records indicate that the respondents - defendants



filed a detailed written statement denying the assertion made in the plaint. Plaintiff No.2 filed an affidavit and examined himself as PW1. The said witness was cross examined by the defendants and thereafter, plaintiff No.1 has filed an affidavit in lieu of the examination-in-chief which was opposed by the defendants by filing an application to strike off the evidence of PW2 on the ground that PW1 has clearly admitted in the cross-examination that he is deposing on behalf of another plaintiff and he cannot be permitted to adduce evidence. The Trial Court accepted the said version under the impugned order and struck off the affidavit. It is to be noticed that both the plaintiffs are claiming independent source of title and possession over the suit schedule properties. Hence, the Trial Court cannot deny the opportunity to adduce evidence to plaintiff No.1. The assertion of the defendants is that filing of the affidavit by plaintiff No.1 is an attempt to overcome the admission in the evidence of PW1. It is to be noticed that the Trial Court can always take note of



such facts if PW2 makes such attempt to overcome any of the admissions of PW2 during his evidence.

6. In my considered view, the Trial Court has committed grave error in entertaining the application filed by the defendants and striking off the evidence of plaintiff No.1 / PW2 without any justifiable reason. It is also to be noticed that plaintiff No.1 is claiming independent right over the suit schedule 'B' property by virtue of a registered sale deed dated 09.04.2007 and he intends to produce the said document as evidence. Taking note of the same and for the aforementioned reasons, I proceed to pass the following;

ORDER

(i) The writ petition is ***allowed***.

(ii) The impugned order dated 27.10.2022 passed in O.S.No.830/2015 on I.A.No.IX is *set aside*. Consequently, I.A.No.IX filed by the defendants is *rejected*.



(iii) The Trial Court is directed to consider the affidavit of PW2 and permit the defendant to cross examine PW2.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

GH
List No.: 1 SI No.: 3