HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.26047/2022 (GM-CPC)

BETWEEN:

K. VASU
AGED ABOUT 74 YEARS
S/O LATE KRISHNAIAH
R/AT NO.311, 7TH CROSS
NAZARBAD MOHALLA, K.C. LAYOUT
ITTIGEGODU, MYSURU – 570010.

…PETITIONER

(BY SRI. H.C. SHIVARAMU, ADV.,)

AND:

1. M.V. DAYANAND
   AGED ABOUT 41 YEARS
   S/O K. VASU.

2. V. KRISHNA
   AGED ABOUT 40 YEARS
   S/O K. VASU.

3. V. RAGHU
   AGED ABOUT 39 YEARS
   S/O K. VASU.

   ALL ARE R/AT NO.311, 7TH CROSS
   NAZARBAD MOHALLA, K.C. LAYOUT
   ITTIGEGODU, MYSURU CITY - 570010.

…RESPONDENTS

(BY SRI. G. BALAKRISHNA SHASTRY, ADV., FOR R1
SRI. S. RUPESH KUMAR, ADV., FOR R2
SRI. NISHANTH S.K. ADV., FOR R3)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DATED 19.11.2022 PASSED BY THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM MYSURU IN O.S.NO.304/2018 BY SECURING THE LOWER COURT RECORD AT ANNEXURE-B PASSED ON IA XII & ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 03.07.2026, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV ORDER

This writ petition is filed challenging the common order dated 19.11.2022 passed on I.A.Nos.11 and 12 in O.S.No.304/2018 by the Principal Senior Civil Judge and CJM, Mysuru (for short, 'the Trial Court').

2. Heard Sri.H.C.Shivaramu, learned counsel appearing for the petitioner and Sri.G.Balakrishna Shastry, learned counsel appearing for the respondent No.1.

3. The respondent No.1 herein has filed a suit in O.S.No.304/2018 seeking for judgment and decree of partition and separate possession of the plaintiff's 1/4th

share by metes and bounds in the suit schedule properties and for an enquiry in respect of the mesne profits of the suit schedule properties as per Order XX Rule 12 of the Code of Civil Procedure, 1908 (for short, 'the CPC'). The plaintiff filed an application in I.A.No.11 seeking prayer to direct the opponents/tenants of the plaint 'A' schedule property to deposit 1/4th of the rent payable under rent agreements dated 01.10.2019 and 18.01.2020. In support of the said application, an affidavit is filed by the plaintiff contending that opponent Nos.1 to 3 in the application are the tenants in respect of the plaint 'A' schedule property. The property consists of ground, first and second floors. It is deposed that the said opponents have entered into an agreement with the defendant No.1 and currently, paying monthly rent of Rs.62,000/- and Rs.10,500/-, respectively and the property being the joint family property, the plaintiff is entitled to 1/4th share of the rent and sought to deposit the same before the Court.

4. The defendant No.1 had filed I.A.No.12 seeking a prayer to direct the plaintiff to deposit the monthly profit accrued out of the business carried out in the written statement schedule property based on the books and accounts. In support of the said application, it is deposed by the defendant No.1 that he had acquired plaint 'A' schedule property through registered partition deed dated 13.03.1975 and thereafter, he has purchased the share of his brother K.Rajendra by paying a valuable sale consideration through sale deed dated 06.02.1980 and he has become the absolute owner of the plaint 'A' schedule property. It is further deposed that schedule 'B' property is the self acquired property and the written statement schedule property which is the business establishment running in Shop No.331, Devaraja Market, Mysuru, is an ancestral business of the family and his brother has relinquished his right in favour of the defendant No.1 and he started the business therein. It is also deposed that the plaintiff had filed a suit for permanent injunction

against the defendant No.3 in O.S.No.825/2017 in respect of the written statement suit schedule property. In the said suit, the application for injunction was rejected which was assailed in M.A.No.141/2017. The Appellate Court allowed the appeal and further directed the plaintiff to render accounts with respect to the business transaction carried out in the written statement schedule property.

5. The Trial Court, under the impugned common order, allowed I.A.No.11 filed by the plaintiff and the tenants were directed to deposit 1/4th of the share of the rent to the Court and proceeded to reject I.A.No.12 filed by the defendant No.1 for depositing the monthly profit accrued out of the business carried out in the written statement schedule property. The defendant No.1 has assailed both the orders.

6. The Trial Court, while allowing the application in I.A.No.11 filed by the plaintiff, has narrated the averments made in the application as well as the affidavit with regard

to the prayer of the plaintiff in the suit, rent being received by the defendant No.1 from the tenants and thereafter, proceeded to observe that without trial, it would be difficult to come to the conclusion as to whom the property belongs. This Trial Cout held that as the suit is filed and the plaintiff has stated that he is the son of the defendant No.1 and is having rights, if the relief sought for in the application is considered, no loss or harm would be caused to the other side and proceeded to allow the application. The Trial Court has not assigned any reason whatsoever for allowing the application and ordered for deposit of rent of 1/4th share of the plaintiff before the Court. The Trial Court ought to have conducted an enquiry with regard to the existence of the rent agreements, actual rent received by the defendant No.1 after paying taxes, maintenance, if any, etc. before allowing the application. However, in the absence of any such enquiry, based on the assertion made in the application, ordering for deposit of 1/4th share of the rent is impermissible. Moreso, the defendant No.1 is

claiming that the suit schedule property is the self acquired property and the second relief in the suit is for mesne profit. In the absence of any detailed enquiry with regard to the mesne profit, ordering to deposit the rent would amount to prejudging the issue. Hence, the impugned order on I.A.No.11 filed by the plaintiff calls for interference.

7. Insofar as order on I.A.No.12 filed by the defendant No.1 under Section 151 of the CPC is concerned, it is required to be noticed that the plaintiff had filed the accounts before this Court along with the memo dated 07.11.2025 and also contended that the entire accounts are furnished before the Trial Court and hence, the correctness of the order passed on I.A.No.12 need not be gone into.

8. This Court has noticed that the suit is of the year 2018 and still recording of the evidence is not commenced in view of the fact that the parties to the suit

have filed numerous applications and orders on those applications were assailed before this Court and that there is another suit filed by the respondent No.3 in O.S.No.825/2017 and also that there is a criminal proceeding initiated by the plaintiff which has resulted in filing of the charge sheet against the petitioner. Be that as it may, the Trial Court is required to dispose of the suit on merits by stipulating the time line for recording the evidence of the parties.

9. Considering the aforesaid aspects, I am of the considered view that the impugned order of the Trial Court insofar as I.A.No.11 is concerned, the same calls for interference and no orders are required to be passed on the impugned order on I.A.No.12 in view of the fact that the plaintiff has submitted the accounts before the Trial Court as well as this Court.

10. For the aforementioned reasons, I proceed to pass the following:

ORDER

(i) The writ petition is allowed-in-part.

(ii) The impugned order dated 19.11.2022 passed on I.A.No.11 filed by the plaintiff under Section 151 of the CPC seeking a direction to deposit 1/4th of the rent amount before the Court, is set aside. Consequently, I.A.No.11 is rejected.

(iii) The impugned order dated 19.11.2022 passed on I.A.No.12 does not call for any interference.

(iv) The Trial Court shall dispose of the suit as expeditiously as possible and the parties to the suit shall co-operate for early disposal.

11. In view of the disposal of the writ petition, the pending interlocutory applications do not survive for consideration and are accordingly disposed of.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 2 Sl No.: 1