



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 11TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.203224 OF 2024 (GM-CPC)

BETWEEN:

1. SMT. KAMALABAI W/O LATE RAOSAB BIRADAR,
AGED ABOUT 73 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST. BIDAR – 585327.
2. SMT. HARUBAI W/O GUNWANTHRAO BIRADAR,
AGED ABOUT 71 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.

...PETITIONERS

(BY SMT. VAISHNAVI CHANDH, FOR
SRI. RAVI B. PATIL, ADVOCATES)

AND:

1. BHAGAWANTH S/O GOVINDRAO BIRADAR,
AGED ABOUT 67 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327
2. VIMALABAI W/O PRAKASH BIRADAR,
AGED ABOUT 61 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
3. VENKATRAO S/O NARAYANRAO BIRADAR,
AGED ABOUT 68 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,





DIST.BIDAR – 585327.

4. REHANA BEE W/O JABBAR BIRADAR,
AGED ABOUT 61 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
5. MOULAN SAB S/O SATTARSAB,
AGED ABOUT 71 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
6. HUSSAIN SAB S/O SATTARSAB,
AGED ABOUT 61 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
7. AKBAR SAB S/O SATTARSAB,
AGED ABOUT 73 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
8. VAIJINATH S/O GNYANOBA,
AGED ABOUT 71 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
9. BABURAO S/O SHIVAJI METHRE,
AGED ABOUT 71 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
10. TEJABAI S/O KERABA SAGAR BIRADAR,
AGED ABOUT 73 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.
11. VITHALRAO S/O NARASINGRAO,
AGED ABOUT 66 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.



12. KISHAN S/O KERAB TARSHETTE,
AGED ABOUT 68 YEARS, OCC: AGRICULTURE,
R/O KAKNAL VILLAGE, TQ.BHALKI,
DIST.BIDAR – 585327.

...RESPONDENTS

(BY SRI. VINAYAK APTE, ADVOCATE FOR R2 TO R8 & R12;
V/O DATED 11.06.2026 NOTICE TO R10 D/W)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A) A WRIT OF CERTIORARI ANY OTHER WRIT OR DIRECTION TO QUASH THE IMPUGNED ORDER DATED 11.11.2024 IN O.S NO.36/2018 AS AT ANNEXURE-F PASSED BY THE COURT OF SENIOR CIVIL JUDGE AND JMFC AT BHALKI REJECTING I.A XVI UNDER ORDER III RULE 2 OF CODE OF CIVIL PROCEDURE PREFERRED BY THE PETITIONERS AND CONSEQUENTLY TO ALLOW THE APPLICATION AS PRAYED FOR, B) PASS SUCH OTHER ORDER/S AS THIS HON'BLE COURT DEEMS FIT TO GRANT IN THE CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

This petition by the plaintiffs in OS No.36/2018 is directed against the impugned order dated 11.11.2024 passed by the Senior Civil Judge and JMFC-Bhalki, whereby the application in I.A.No.XVI filed by the petitioners-plaintiffs seeking permission to prosecute the



suit and adduce evidence through their General Power of Attorney (GPA) Holder was rejected by the Trial Court.

2. A perusal of the material on record will indicate that the petitioners-plaintiffs having instituted the aforesaid suit against the respondents-defendants for declaration, perpetual injunction and other reliefs in relation to the suit schedule immovable property, the said suit was contested by the respondents-defendants. At the stage of commencement of trial, the petitioners-plaintiffs filed the instant application seeking permission to prosecute the suit and adduce evidence through their GPA holder, one Maruti S/o petitioner No.2 on the ground that the petitioners-plaintiffs are women and senior citizens having health issues and they are not in a position to prosecute the suit and adduce evidence. The said application having been opposed by the respondents-defendants, the Trial Court proceeded to pass the impugned order rejecting the application on the ground that valid and sufficient grounds had not been made out



by the petitioners to seek permission to conduct/prosecute the suit and adduce evidence through the GPA holder as sought for by them in the application. Aggrieved by the impugned order passed by the Trial Court, petitioners are before this Court by way of the present petition.

3. A perusal of the impugned order will indicate that the Trial Court has clearly adopted a hyper technical approach in preventing the petitioners from prosecuting the suit through the son of the petitioner No.2, who is also the GPA holder of both the petitioners without appreciating that the issue/question as to evidentiary value of the evidence to be adduced by GPA Holder would lie in the realm of appreciation of evidence and the said issue/question cannot be gone into, while considering such application for permission to prosecute and give evidence the suit through GPA Holder. In this context, it is pertinent to note that if the petitioners are permitted to prosecute the suit through their GPA holder, the respondents-defendants would be entitled to cross



examine the said witness on all aspects of the matter and as such, it cannot be said that any prejudice would be caused to the respondents-defendants, if the petitioners are permitted to prosecute the suit and adduce evidence through their GPA holder.

4. Under these circumstances, I deem it just and appropriate to adopt a justice oriented approach and in order to enable the petitioners-plaintiffs to effectively prosecute the suit, having regard to their advanced age and the petitioners being senior citizens and claiming to be suffering from various ailments, set aside the impugned order and allow the application filed by the petitioners.

5. Accordingly, I pass the following:

ORDER

- i. The writ petition is hereby ***allowed***.
- ii. The impugned order dated 11.11.2024 in OS No.36/2018 passed by the Senior Civil Judge



and JMFC-Bhalki, in I.A.No.XVI is hereby set
aside.

iii. I.A.No.XVI filed by the petitioners-plaintiffs is
hereby allowed.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

NJ
LIST NO.: 2 SL NO.: 5
CT:SI