HC-KAR

NC: 2026:KHC:29558
W.P. No.7368/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.7368/2021 (GM-CPC)

BETWEEN:

1. SRI. A.C. PRADEEPKUMAR
   S/O CHANNABASAVAIAH
   AGED ABOUT 42 YEARS.

2. SMT. M.B. GANGAMBIKE
   W/O A.C. PRADEEPKUMAR
   AGED ABOUT 40 YEARS.

   BOTH ARE RESIDENT OF
   KRISHNAIAH SETTY COMPOUND
   MAIN ROAD, KORATAGERE TOWN
   TUMKUR DISTRICT-572129.

3. A.C. HEMANTH
   S/O CHANNABASAVAIAH
   AGED ABOUT 39 YEARS
   RESIDENT OF AGRAHARA VILLAGE
   C N DURGA HOBLI
   KORATAGERE TALUK-572129.

4. A.S. BASAVARAJU HERIMAT
   S/O LATE R. SHIVALANGA SWAMY HERIMAT
   AGED ABOUT 56 YEARS
   R/AT RUSHABHA NILAYA
   6TH CROSS, BEHIND UCO BAK
   VALMIKINAGAR
   TUMKUR TOWN, TUMKUR TALUK-572129.

...PETITIONERS

(BY MR. RAMAKRISHNA HEGDE, ADV.,)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

AND:

H. SATYANARAYANA SETTY
S/O A.G. HANUMANTHAIAH SETTY
AGED ABOUT 63 YEARS
R/OF NEAR SHANI MAHATMA TEMPLE
MAIN ROAD, KORATAGERE TOWN
TUMKUR DISTRICT-572129.

…RESPONDENT

(BY MS. ARCHANA T.V. ADV., FOR
MR. T.N. VISWANATHA, ADV.,)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE IMPUGNED ORDER DTD 26.02.2021, PASSED BY THE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC MADHUGIRI IN O.S.NO.27/2013 VIDE ANNX-G & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

This petition is filed challenging the order dated 26.02.2021 passed in OS.No.27/2013 by the Principal Senior Civil Judge and JMFC, Madhugiri (for short 'the trial Court').

2. Sri.Ramakrishna Hegde, learned counsel for the petitioners submits that the respondent has filed a suit for

specific performance of an agreement of sale dated 14.05.2012. In the said suit, the petitioners filed their written statement denying the execution of the agreement of sale. During the course of examination-in-chief of PW1, a xerox copy of the agreement of sale dated 14.05.2012 was permitted to be marked on the basis of a memo filed by the plaintiff. It is submitted that the memo indicates that the original document had been misplaced from the safe custody of the Court. However, while allowing the memo, the trial Court failed to consider the objections filed by the petitioners and did not conduct any enquiry as to whether the xerox copy produced was a true copy of the original document kept in safe custody, who was responsible for the missing of the said original agreement and what action has been taken against the persons concerned. In the absence of any such enquiry, the Court straightway permitted to mark the xerox copy of the agreement, which is impermissible. Hence, he seeks to allow the petition.

3. Per contra, Ms.Archana, learned counsel for Sri.T.N.Viswanatha, learned counsel appearing for the respondent/plaintiff supports the order of the trial Court and submits that there was absolutely no lapse on the part of PW1. It is submitted that the plaintiff had produced the original agreement of sale along with the plaint itself, and the same was kept in the safe custody of the Court, as is evident from the order sheet. Thereafter, the original agreement was either misplaced or lost by the Court staff. It is further submitted that in order to continue with the proceedings, the respondent/plaintiff produced a photocopy of the very same document that had originally been filed before the Court, and the Trial Court rightly permitted the same to be marked. It is also submitted that there is absolutely no merit in the writ petition and hence, she seeks to dismiss the petition.

4. I have heard the arguments on both sides and meticulously perused the material available on record.

5. The respondent/plaintiff has filed a suit in OS.No.27/2013 seeking specific performance of the agreement of sale dated 14.05.2012. The said agreement was denied by the petitioners/defendants in their written statement. Thereafter, the plaintiff filed an affidavit in lieu of examination-in-chief and intended to mark the agreement of sale in question. It is to be noticed that the respondent/plaintiff had produced the original agreement of sale dated 14.05.2012 along with the plaint, and the trial Court, vide order dated 05.08.2013 had ordered the CMO to keep the original agreement of sale dated 14.05.2012 in safe custody. The aforesaid order clearly indicates that the original agreement of sale was in the safe custody of the Court. The records further indicate that when the Court sought to secure the agreement of sale, it could not be traced, as it had been reported to be misplaced.

6. When things stood thus, the plaintiff filed a memo along with a xerox copy of the agreement of sale

dated 14.05.2012 seeking permission to mark the same. The petitioners opposed the request by filing objections contending that the contents of the document had been manipulated in the xerox copy and further denying the signatures appearing thereon, etc. It is also to be noticed that there was a lapse on the part of the concerned Court and its registry in misplacing the original document. The plaintiff thereafter produced the available xerox copy of the agreement of sale for marking, and the trial Court permitted the same. In my considered view, there is absolutely no error on the part of trial Court in allowing the xerox copy of agreement of sale to be marked.

7. Insofar as enquiry with regard to the misplacement of the original document is concerned, the trial Court has already reported the incident to the concerned District Court as well as the High Court. In my considered view, the concerned Court/District Court shall conduct an appropriate enquiry with regard to the misplacement of the original agreement of sale dated

14.05.2012 by the office of the concerned Court in accordance with law. With the aforesaid observations, there is no merit in the petition calling for interference. Accordingly, the writ petition is devoid of merit and the same is ***rejected***.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 20