



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 3RD DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 106032 OF 2022 (GM-CPC)

BETWEEN:

SRI VINAYAK S/O. MAHADEVASA METRANI,

.....

(BY SRI CHETAN T. LIMBIKAI, ADVOCATE)

...PETITIONER

AND:

1. SMT. GADIGEVVA @ NEELAVVA,

2. SMT. GIRIJAVVA W/O. VIRUPAXGOUDA NARAGUND,

3. SMT. GANGAMMA W/O. SIDDALINGAPPA HADAGALI,

4. MAHADEVAPPA S/O. RUDRAPPA ASUNDI,
.....





5. SMT. CHANDRAVVA W/O. BAILAPPA

6. GADIGEPPA S/O. RUDRAPPA ASUNDI,

7. TUSHAR S/O. JAYAPAL LANGOTI.

8. AZARUDDIN S/O. BHASHASAB MUNASI,

...RESPONDENTS

(BY SRI SACHIN C. ANGADI &
H.N. DODDAMANI, ADVOCATES FOR R1 TO R3
NOTICE TO R4 TO R8 IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 03.09.2022 VIDE ANNEXURE-G MADE ON IA NO.5 IN O.S.NO.02/2020 PENDING ON THE FILE OF 1ST ADDITIONAL SENIOR CIVIL JUDGE AND J.M.F.C., HUBBALLI, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION IS COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:



ORDER

The captioned writ petition is filed by defendant No.4-purchaser assailing the order of the Courts below, wherein plaintiffs application seeking amendment of plaint to include the left out properties as indicated by defendants is allowed and plaintiffs are permitted to include the other properties. The said order is challenged by a purchaser.

2. Heard learned counsel for the petitioner/defendant No.4 and respondents.

3. Admittedly, the suit is one for partition and separate possession. The defendants have taken a stand that the plaintiffs have not included all the properties and therefore, suit for partial partition is not maintainable. In the light of the defence set-up by defendants, plaintiffs by way of amendment have sought leave of the Court to include all the properties.

4. It is quite strange to know that petitioner who is purchaser of undivided interest who has no *locus* in a



partition suit has ventured in challenging the order passed on amendment application. While drawing a preliminary decree, a stranger-purchaser has no say in the suit. Merely because, he is impleaded in the suit, will not give a right to him to dictate as to how the suit has to be proceeded with. His rights, if any, in an undivided interest has to be worked out in final decree proceedings.

5. Therefore, the writ petition is liable to be dismissed on two grounds. Firstly, the order under challenge is in accordance with law. Secondly, the petitioner being a stranger-purchaser could not have knocked the door of this Court. The judgment cited by the learned counsel for petitioner in the case of **Sri H.K.Manjunath Vs Sri Ramesh Kumar in W.P.No.21717/2021(GM-CPC)**, decided on **06.04.2022**, is not applicable to the present case on hand.



6. Accordingly, the writ petition is dismissed.

Sd/-
JUDGE

AM
List No.: 1 Sl No.: 11