

IN THE HIGH COURT OF KARNATAKA KALABURAGI BENCH

DATED THIS THE 20^{TH} DAY OF AUGUST, 2025 BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI WRIT PETITION NO.201502 OF 2023 (GM-CPC)

BETWEEN:

SANGAMMA W/O SRIMANT MASKALE, AGE: 52 YEARS, OCC: AGRICULTURE, R/O VILLAGE HEDGAPUR, TQ. AURAD-B, DIST. BIDAR-585326.

...PETITIONER

(BY SRI. SACHIN M. MAHAJAN, ADVOCATE)

AND:

- RAMESH S/O LATE GANAPATHI, AGE: 43 YEARS, OCC: AGRICULTURE, R/O VILLAGE HEDGAPUR, TQ. AURAD-B DIST. BIDAR-585326.
- JAGADEVI W/O LATE GANAPATHI, AGE: 42 YEARS, OCC: AGRICULTURE & HOUSEHOLD, R/O VILLAGE HEDGAPUR, TQ. AURAD-B DIST. BIDAR-585326.
- 3. UMAKANT S/O LATE GANAPATHI, AGE: 41 YEARS, OCC: AGRICULTURE, R/O VILLAGE HEDGAPUR, TQ. AURAD-B DIST. BIDAR-585326.
- SANGEETA W/O RATIKANT KULKARNI,





AGE: 45 YEARS, OCC: AGRICULTURE & HOUSEHOLD, R/O VILLAGE CHAPTI REVENUE MANDAL NARAYANKHED, TQ. NARAYANKHED, DIST. MEDAK, TELANGANA-582286.

...RESPONDENTS

(BY SRI. SANTOSH BIRADAR, ADVOCATE FOR R1; NOTICE TO R2 TO R4 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS LISTED FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, AN ORDER IS MADE AS UNDER:

ORAL ORDER

Sri.Sachin M.Mahajan., counsel for the petitioner and Sri.Santosh Biradar., counsel for respondent No.1 have appeared in person.

Notice to the respondents was ordered on 13.06.2023. A perusal of the office note depicts that respondents 2 to 4 are served and unrepresented. They have neither engaged the services of an advocate nor conducted the case as a party in person.

2. The order dated 27.02.2023 passed by the Court of Civil Judge and JMFC, Aurad-B on I.A.No.10 in O.S.No.99/2016 vide Annexure-E is called into question in this Writ Petition on several grounds as set-out in the Memorandum of Writ Petition.



- 3. Counsel for the respective parties urged several contentions. Heard the arguments and perused the Writ papers with care.
- Suffice it to note that the plaintiff filed a suit for 4. partition and separate possession and registered sale deed dated 10.09.1996 alleged to have been executed by his father as ineffective, inoperative and null and void. After service of the summons, defendant No.4 filed written statement. Defendant No.4 being the purchaser, filed an application for amendment for inclusion of properties bearing Sy.No.20, 19/B and 178/B situated at Hedgapur Village, Taluk Aurad-B, District Bidar. The same was opposed by the plaintiff. The Trial Court vide order 27.02.2023 rejected the application. Hence, dated petitioner is before this Court. The Trial Court rejected the application on the sole ground that defendant No.4 filed the written statement in 2017 and an application for amendment was filed in 2023, hence there is a lapse of more than four years. The reason assigned by the Trial Court is untenable. The delay cannot be a ground to reject the application.

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Counsel for the plaintiff submits that the properties which

defendant No.4 proposed to include are ancestral properties. If

that be so, the plaintiff ought to have included those properties

in the plaint. The law is settled that there cannot be a partial

partition. This aspect of the matter has been overlooked by the

Trial Court and erroneously rejected the application. Therefore,

the order passed by the Trial Court is liable to be set-aside.

Accordingly, it is set-aside.

5. The Writ of Certiorari is ordered. The order dated

27.02.2023 passed by the Court of Civil Judge and JMFC,

Aurad-B on I.A.No.10 in O.S.No.99/2016 vide Annexure-E is

quashed. I.A.No.10 is allowed. The suit is of the year 2016. A

gentle reminder is made to the Trial Court to dispose of the suit

as expeditiously as possible.

6. Resultantly, the Writ Petition is **allowed**.

Sd/-(JYOTI MULIMANI) JUDGE

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List No.: 1 SI No.: 47