IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE 4^{TH} DAY OF JANUARY 2022

BEFORE

THE HON'BLE MR.JUSTICE ASHOK S. KINAGI

WRIT PETITION No.9194 of 2017 (GM-CPC)

BETWEEN:

- 1 . SMT. ALYAMMA JACOB W/O A K JACOB AGED ABOUT 69 YEARS
- 2 . A K JACOB S/O A K KOCHUMEN AGED ABOUT 69 YEARS

BOTH ARE RESIDING AT BETHEL COTTAGE, FARM HOUSE CONSTRUCTED IN SY NO 33 OF MYADARAHALLY, YASHAVANTHAPURA HOBLI, BANGALORE NORTH TALUK BANGALORE RURAL DISTRICT - 560090.

...PETITIONERS

(BY SMT. S. SUSHEELA, SR. COUNSEL FOR SRI. T R RAMESH, ADVOCATE)

AND:

A. PILLAPPA S/O LATE ARASAPPA SINCE DEAD BY LRS

- SMT CHANNAMMA
 W/O LATE A PILLAPPA
 AGED ABOUT 80 YEARS
- 2 . SMT MUNIGURAMMA D/O LATE A PILLAPPA AGED ABOUT 60 YEARS
- 3 . SMT PATALAMMA D/O LATE A PILLAPPA AGED ABOUT 56 YEARS
- 4 . SMT HANUMAKKA D/O LATE A PILLAPPA AGED ABOUT 52 YEARS

ALL ARE RESIDING AT MYADARAHALLY, YASHAVANTHAPURA HOBLI, BANGALORE NORTH TALUK, BANGALORE RURAL DISTRICT - 560090

....RESPONDENTS

(BY SRI. S KUMAR, ADVOCATE FOR R-2 SRI. V. VINOD REDDY, ADVOCATE FOR R-3 SRI. H.N. PRAKASH, ADVOCATE FOR R-1 AND R-4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS AND PROCEEDINGS OF THE CASE THIS HON'BLE COURT MAY BE PLEASED TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER QUASH THE ORDER DATED 14.02.2017 PASSED BY THE COURT OF THE 25TH ADDL. CITY CIVIL JUDGE, BANGALORE CITY IN 0.S.2495/1996 ON THE APPLICATIONS I.A.NOS.30 TO 32 FILED BY PETITIONERS AT ANNEX-H AND BE PLEASED TO ALLOW THE APPLICATIONS I.A.NOS.30 TO 32 AT ANNEX-D, E & F RESPECTIVELY.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioners being aggrieved by the order dated 14.02.2017, passed on I.A.Nos.30 to 32 in O.S.Nos.2493/1996 c/w 2494/1996 c/w 2495/1996, by the XXV Addl. City Civil & Sessions Judge, Bangalore City - CCH No.23, have filed this writ petition.

2. Brief facts leading rise to filing of this petition are as under:

The petitioners filed a suit in O.S.No.2495/1996 for the relief of specific performance of contract. The respondent appeared and filed written statement. Thereafter petitioners were examined and closed their side. Thereafter respondent was also examined and closed their side. When the matter was posted for arguments, the petitioners filed an application in

- I.A.No.30 to reopen the case, I.A.No.31 to recall PW-1 and I.A.No.32 for production of documents. The said applications were opposed by the respondents. The Trial Court, after hearing both the parties, rejected the applications filed by the petitioners, vide order dated 14.02.2017. Hence this writ petition.
- 3. Heard learned Senior counsel for petitioners and learned counsel for the respondents.
- 4. Learned Senior counsel for the petitioners submits that petitioners have produced documents to show that the petitioners are agriculturists and hence have agreed to purchase the suit land. She further submits that, only in order to prove that the petitioners are agriculturists, they sought to produce the documents. Hence she submits that the Trial Court has committed an error in rejecting the application solely on the ground that the matter has

been posted for arguments. She further submits that if opportunity is given to the petitioners to mark the documents, no injustice would be caused to the respondents. Hence on these grounds, prays to allow the writ petition.

- 5. Per contra, learned counsel for the respondents submits that the proposed documents are not relevant for the purpose of deciding the matter in dispute. He further submits that the petitioners have not referred the proposed documents in the plaint. Hence he submits that the Trial Court was justified in rejecting the applications.
- 6. Perused the records and considered the submissions made by learned counsel for the parties.
- 7. The petitioners have filed a suit for specific performance of contract on the ground that the respondents have agreed to sell the suit land i.e.,

agricultural land and petitioners are agriculturists and they are entitled to purchase the agricultural land. Only in order to prove that the petitioners are agriculturists, they sought to produce the documents. From the perusal of records, petitioners intend to produce RTC extracts to show that the petitioners are agriculturists. In the facts and circumstances of the case, I am of the considered opinion that if the petitioners are permitted to produce documents and further given an opportunity to lead evidence with regard to the documents produced by reopening the case on payment of cost of Rs.15,000/-, no injustice would be caused to the respondents. The Trial Court has committed an error in rejecting the applications.

8. In view of the above discussion, I proceed to pass the following:

ORDER

The writ petition is allowed.

The impugned order is set aside. Consequently, I.A.Nos.30 to 32 are allowed, subject to payment of cost of Rs.15,000/-. The petitioners to pay cost of Rs.15,000/- to respondents on the next date of hearing before the Trial Court.

As the suits are of the year 1996, the Trial Court is directed to dispose of the suits as expeditiously as possible.

SD/-JUDGE