



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.20220 OF 2021 (GM-CPC)

BETWEEN:

1. SMT. N.G. GIRIJA
D/O LATE N.R. GURUMURTHY REDDY
AGED ABOUT 56 YEARS.
2. SRI. SADASHIVA
S/O LATE N.R. GURUMURTHY REDDY
AGED ABOUT 46 YEARS.
3. SMT. N.G. PADMAVATHI
D/O LATE N.R. GURUMURHTY REDDY
AGED ABOUT 54 YEARS.

ALL ARE R/AT
NO.C/O NO.B-507
SMR VINAY GALAXY
HOODI CIRCLE
WHITE FIELD MAIN ROAD
BANGALORE 48.

...PETITIONERS

(BY SRI. VIVEK SUBBA REDDY, SR. COUNSEL A/W
SRI. DILLI RAJAN, ADV.,)

AND:

1. SMT. SAROJAMMA
W/O LATE KRISHNA REDDY, MAJOR
NO.201/2, GARDEN HOUSE L BLOCK
12TH CROSS, 1ST MAIN
DODDENAKUNDI VILLAGE
K R PURAM HOBLI
BANGALORE EAST TALUK, BANGALORE 37.





2. N.K. CHANDRASHEKAR REDDY
S/O LATE N.R. KRISHNA REDDY, MAJOR
NO.85 NEW NO.201/2
GARDEN HOUSE
12TH CROSS, 1ST MAIN
DODDENAKUNDI VILLAGE
K R PURAM HOBLI
BANGALORE EAST TALUK
BANGALORE 37.
3. SRI. BHOOPENDRA REDDY
S/O LATE KRISHNA REDDY, MAJOR
NO.201/2, GARDEN HOUSE
12TH CROSS, 1ST MAIN
DODDENAKUNDI VILLAGE
K R PURAM HOBLI
BANGALORE EAST TALUK
BANGALORE 37.
4. N.K. SOMASHEKAR
S/O LATE KRISHNA REDDY, MAJOR
NO.201/2, GARDEN HOUSE S BLOCK
12TH CROSS, 1ST MAIN
DODDENAKUNDI VILLAGE
K R PURAM HOBLI
BANGALORE EAST TALUK
BANGALORE 37.
5. SMT. GAYATHRI
D/O N.K. KRISHNA REDDY, MAJOR
DODDENAKUNDI VILLAGE
K R PURAM HOBLI
BANGALORE EAST TALUK
BANGALORE 37.
6. N.K. LOKESH
S/O LATE KRISHNA REDDY, MAJOR
NO.201/2, GARDEN HOUSE L BLOCK
12TH CROSS, 1ST MAIN
DODDENAKUNDI VILLAGE
K R PURAM HOBLI
BANGALORE EAST TALUK, BANGALORE 37.



7. M/S. BAGAMANE ESTATE
PVT. LTD. A COMPANY
INCORPORATED UNDER THE
COMPANIES ACT 1956
HAVING ITS REGISTERED OFFICE
AT LAKE VIEW BLDN, NO.66/1
BLOCK 8TH FLOOR, BAGAMANE TECH PARK
C V RAMAN NAGAR, BANGLAORE 93.
8. THE MANAGER
KARNATAKA BANK LTD
MARATHAHALLI BRANCH
BANGALORE 37.
9. THE MANAGER
STATE BANK OF INDIA
CMH ROAD BRANCH
INDIRANAGAR, BANGALORE 38.

...RESPONDENTS

(BY SRI. M. ERAPPA REDDY, ADV., FOR C/R2 (ABSENT)
SRI. G.R. LAKSHMIPATHY REDDY, ADV., FOR R4 (ABSENT)
SMT. LATHA S. SHETTY, ADV., FOR
SHETTY AND HEGDE ASSOCIATES FOR R7
SRI. CHANDRASHEKAR P. PATIL, ADV., FOR R5
V/O DTD:01.12.2021 NOTICE TO R1, R4, R6, R8 AND R9 ARE
DISPENSED WITH
V/O DTD:17.01.2023 NOTICE TO R3 IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
IMPUGNED ORDER DATED 06.11.2021 IN RESPECT OF I.A
NO.11 PASSED BY THE TRAIL COURT IN O.S.NO.5427/2014
AND TO ALLOW THE IMPLEADING APPLICATION VIDE
ANNEXUR-A AND ETC.

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

**ORDER**

This writ petition is filed under Article 227 of the Constitution of India assailing the order dated 06.11.2021 passed on I.A.No.11 in O.S.No.5427/2014 by the X Additional City Civil and Sessions Judge, Bengaluru (for short, '***the trial Court***').

2. Brief facts giving rise to filing of this petition are that one Smt.K.Gayathri has filed the suit in O.S.No.5427/2014 seeking prayer for declaration that the partition deed dated 05.09.2012 is null and void and not binding on the plaintiff, declaration that the sale deed dated 06.09.2012 is not binding on the plaintiff and further prayer for partition and separate possession of the plaintiff's 1/6th share each in the schedule properties by metes and bounds and put the plaintiff in separate possession and other prayers.

3. During the pendency of the said suit, the present petitioners have filed an application under Order I Rule 10(a) of CPC praying to implead them as defendant



Nos.9 to 11 in the said suit on the ground that they are proper and necessary parties for adjudication of the suit as their rights and interest are involved in respect of the suit schedule immovable properties. The said application filed by the petitioners was rejected by the trial Court. Being aggrieved by the rejection of the said application, the present writ petition is filed.

4. Learned Senior counsel Sri.Vivek Subba Reddy appearing on behalf of the petitioners submits that the proposed impleading applicants/petitioners herein are claiming that they are the legal heirs of son of ancestor Sri.N.Ramaiah Reddy and they have right, title and interest in the suit schedule properties and without arraying them as parties, the present suit is filed. It is the specific case of the petitioners/impleading applicants that late Smt.Lakshamma, who was the wife of said Sri.N.Ramaiah Reddy executed the will dated 13.11.1975 without having any legal right to execute the same and the said will has been challenged by the



petitioners/impleading applicants in O.S.No.2378/2004, which is pending consideration and in the said suit, the present petitioners have also claimed partition of the properties covered under the said will and under the strength of the said will other sons of Sri.N.Ramaiah Reddy have created third party rights by alienating portion of the property covered under the said will and now the present suit in O.S.No.5427/2014 is filed by the plaintiff claiming share in the very same properties without making the petitioners as parties to the proceedings. Hence, the petitioners are necessary and property parties to the said suit.

5. Learned counsel for respondent No.7 opposes the writ petition by submitting that the petitioners are not necessary parties to the suit.

6. Learned counsel for the respondent No.5, who is the plaintiff before the trial Court, at the outset, submits



that he has no objection to allow the present writ petition by permitting the petitioners to come on record in the suit.

7. The said submission of learned counsel for respondent No.5 is placed on record.

8. I have heard Sri.Vivek Subba Reddy, learned Senior counsel appearing for the petitioner, Sri.Chandrashekar P.Patil, learned counsel appearing for respondent No.5, Smt.Latha S.Shetty, learned counsel appearing for respondent No.7 and perused the material on record.

9. On close scrutiny of the impugned order and the material on record, it appears that defendant Nos.2 to 6 have opposed the application on the ground that the applicants are pursuing their remedy in O.S.No.2378/2004 with respect to the same subject matter of the property hence they cannot once again seek their partition in the present suit nor they are the family members of plaintiff



and defendant Nos.1 to 5, hence, sought for dismissal of the application.

10. The trial Court has recorded the finding that the petitioners have already instituted a comprehensive suit seeking partition in the family properties of the legal heirs of Sri.N.Ramaiah Reddy by arraying the present plaintiff and defendant Nos.1 to 5 as parties, hence they are not necessary parties in the present suit. In my considered view, the finding recorded by the trial Court is contrary to settled position of law and facts. The petitioners herein are also claiming certain rights over the immovable properties which are subject matter of the present suit and for complete adjudication of the suit, petitioners herein are necessary parties in the present suit. The present application requires to be allowed to avoid the multiplicity of proceedings, waste of time of the parties. The application for impleading is to be allowed so that all the persons who are parties to the dispute relating to the subject matter so that the dispute may be determined in



their presence at the same time without any protraction, inconvenience or multiplicity of proceedings.

11. Learned counsel for the respondent No.5, who is the plaintiff before the trial Court, has also given no objection to implead the petitioners as parties to the proceedings in O.S.No.5427/2014.

12. For the reasons recorded supra and in view of the submission of learned counsel for respondent No.5-plaintiff, the present writ petition is **allowed**. The impugned order dated 06.11.2021 passed on I.A.No.11 in O.S.No.5427/2014 by the X Additional City Civil and Sessions Judge, Bengaluru is set aside. I.A.No.11 filed by the petitioners under Order I Rule 10(a) of CPC before the trial Court is allowed.

No order as to costs.

**Sd/-
JUDGE**

BSR