

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 10<sup>TH</sup> DAY OF MARCH, 2022

BEFORE

**THE HON'BLE MR. JUSTICE E.S. INDIRESH**

**WRIT PETITION NO.2025 OF 2022 (GM-CPC)**

**BETWEEN:**

SREERAMAPPA  
S/O APPAYYANNA  
AGED ABOUT 74 YEARS  
R/AT THIRUMALASHETTY HALLI VILLAGE,  
ANUGONDANAHALLI HOBLI,  
HOSAKOTE TALUK,  
BENGALURU RURAL DISTRICT-560 067.

...PETITIONER

(BY SRI. B. RAMESH, ADVOCATE)

**AND:**

1. THE CHIEF SECRETARY  
DEPARTMENT OF RURAL DEVELOPMENT  
AND PANCHAYATH RAJ,  
VIDHANA SOUDHA,  
BENGALURU-560 001.
2. THE CHIEF EXECUTIVE OFFICER  
BENGALURU RURAL ZILLA PANCHAYATH,  
KEMPEGOWDA ROAD,  
BENGALURU-560 001.
3. THE EXECUTIVE OFFICER  
HOSAKOTE TALUK PANCHAYATH  
HOSAKOTE,  
BENGALURU RURAL DISTRICT-562 114.

4. PANCHAYATH DEAVELOPMENT OFFICER  
SAMETHANAHALLI,  
ANUGONDANAHALLI HOBLI,  
HOSAKOTE TALUK,  
BENGALURU RURAL DISTRICT-560 067.
5. A.G. NAGARAJ  
S/O. LATE DODDAGIRIYAPPA  
AGED ABOUT 56 YEARS  
R/AT NARYANAKERE  
ANUGONDANAHALLI HOBLI,  
HOSAKOTE TALUK,  
BENGALURU RURAL DISTRICT-560 067.
6. M. NAGAPPA  
SINCE DECEASED REP. BY HIS LRS.
  - 6(a). JAYAMMA  
W/O LATE NAGAPPA  
AGED ABOUT 70 YEARS.
  - 6(b). VEERAPPA MURALI  
S/O LATE NAGAPPA  
AGED ABOUT 46 YEARS.
  - 6(c). THIMMARAYAMURTHY  
S/O LATE NAGAPPA  
AGED ABOUT 45 YEARS.
  - 6(d). KUMAR  
S/O LATE NAGAPPA  
AGED ABOUT 42 YEARS.
  - 6(e). BHAGYAMMA  
D/O LATE NAGAPPA  
AGED ABOUT 40 YEARS.

RESPONDENTS 6(a) to 6(e) ARE ALL  
R/AT BHODANAHOSAHALLI VILLAGE,  
ANUGONDANAHALLI HOBLI,  
HOSAKOTE TALUK,  
BENGALURU RURAL DISTRICT-560 067.

....RESPONDENTS

(BY SMT. ROOPA K.R., HCGP FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 12<sup>TH</sup> JANUARY, 2022 PASSED IN ORIGINAL SUIT NO.190 OF 2012 BY THE ADDITIONAL CIVIL JUDGE AND JMFC AT HOSAKOTE WHICH IS PRODUCED AND MARKED AT ANNEXURE-M BY ALLOWING THE APPLICATION FILED BY THE PETITIONER UNDER SECTION 151 OF THE CIVIL PROCEDURE CODE; AND ETC.

THIS PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

The plaintiff has filed this writ petition challenging the order dated 12<sup>th</sup> January, 2022 in Original Suit No.190 of 2012 on the file of the Additional Civil Judge and JMFC., Hosakote, dismissing the application filed by the plaintiff/petitioner herein under Section 151 of the Civil Procedure Code for clubbing of the cases.

2. Brief facts for adjudication of the case are that, the plaintiff has filed an application seeking clubbing of Original Suit

Nos.84 of 2011 and 83 of 2011 along with Original Suit No.190 of 2012 by permitting the plaintiff to prosecute all the three suits together by recording common evidence. The said application was rejected by the trial Court, by order dated 12<sup>th</sup> January, 2022. Being aggrieved by the same, the plaintiff has preferred this writ petition.

3. Sri. B. Ramesh, learned counsel appearing for petitioner contended that the subject matter in the all the three suits, namely, Original Suit No.83 of 2011, Original Suit No.84 of 2011 and Original Suit No.190 of 2012 are one and the same and the Original suit No.190 of 2012 is filed seeking declaratory relief and as such, all these suits are to be clubbed together for adjudicating the same by a common order.

4. Having heard the learned counsel appearing for petitioner, I have carefully considered the finding recorded by the trial Court and also verified the schedule mentioned by the learned counsel appearing for petitioner.

The schedule in Original Suit No. 83 of 2011 reads as under:

"All the piece and parcel of the property bearing Janjar No.313 Property No.8 measuring to an extent of East to West 75 feet, North to South 36 feet of Thirumalasettyhalli village, Anugondanahalli Hobli, Hosakote Taluk, Bengaluru Rural District, bounded on;

East by : Property belongs to Munishamappa

West by : Property to belongs to Road

North by : Property belong to Akkayamma

South by : Property belong to Channara Gowda

The schedule in Original Suit No.84 of 2011 reads as under:

"All the par and parcel of the property bearing Janjar No.314 property No.99 measuring to an extent of East to West 75 feet North to South 42 feet of Thirumalashettyhalli Village, Anugondanahalli Hobli, Hoskote Taluk, Bengaluru Rural District, bounded on;

East by : Property belongs to Kenchappa land

West by : Property to belongs to Road

North by : Property belongs to Kote Nagappa

South by : Property belongs to Thimmarayappa.

The schedule in Original Suit No.190 of 2012 reads as under:

“ಬೆಂಗಳೂರು ಗ್ರಾಮಾಂತರ ಜಿಲ್ಲೆ, ಹೊಸಕೋಟೆ ತಾಲ್ಲೂಕು, ಅನುಗೊಂಡನಹಳ್ಳಿ ಹೋಬಳಿ, ತಿರುಮಲಶೆಟ್ಟಿಹಳ್ಳಿಗೆ ಸೇರಿದ ಖಾನೇಷುಮಾರಿ ಸಂಖ್ಯೆ:-10 ರಲ್ಲಿರುವ ಪಾಳು ಮನೆ ಮತ್ತು ಅದಕ್ಕೆ ಸೇರಿದ ಖಾಲಿ ಜಾಗದ ವಿಸ್ತೀರ್ಣ ಪೂರ್ವ-ಪಶ್ಚಿಮ 155 ಅಡಿಗಳು ಮತ್ತು ಉತ್ತರ-ದಕ್ಷಿಣ 200 ಅಡಿಗಳುಳ್ಳ ನಿವೇಶನಕ್ಕೆ ಚಿಕ್ಕಬಂದಿ:-

ಪೂರ್ವಕ್ಕೆ :- ತೋಟಮುನಿಶಾಮಪ್ಪ, ಚಂದ್ರಪ್ಪ, ನಾರಾಯಣಪ್ಪ ಮತ್ತು ಗುರುರಾವರವರ ಜಮೀನು.

ಪಶ್ಚಿಮಕ್ಕೆ :- ಸರ್ಕಾರಿ ದಾರಿ, ಜಯಲಕ್ಷ್ಮಮ್ಮ ಮತ್ತು ಚಿಕ್ಕಮಯ್ಯ ರವರ ಜಮೀನು.

ಉತ್ತರಕ್ಕೆ :- ಮೇರಿ ವಿಸ್ತಂಟ್, ನಂಜಪ್ಪನವರ ಪಾಪಮ್ಮ ಮತ್ತು ಪಟೇಲ್ ರಾಮಯ್ಯನವರ ಅಂಜಿನಪ್ಪನವರ ಮನೆಗಳು

ದಕ್ಷಿಣಕ್ಕೆ :- ಚಿಕ್ಕಮಯ್ಯ ಮತ್ತು ಗುರುರಾವರವರ ಜಮೀನು.

5. It is not in dispute that the schedule in all the three suits are one and the same. Original Suits No.83 of 2011 and 84 of 2011 have been filed by the plaintiff seeking temporary injunction. However, the defendant in the aforementioned suits has filed comprehensive suit in Original Suit No.190 of 2012. Having taken note of the aforementioned facts, I have carefully considered the finding recorded by trial Court in Paragraphs 11 and 12 of the impugned order which clearly establish the fact that the trial Court has applied its mind and had come to the conclusion that the subject matter in the suit and the schedule

mentioned in the suit are entirely different and distinct and accordingly, declined to entertain the application filed by the plaintiff. In that view of the matter, I do not find any substance in the writ petition. Accordingly, writ petition is dismissed, confirming the impugned order dated 12<sup>th</sup> January, 2022.

**Sd/-  
JUDGE**

ARK