

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 21ST DAY OF AUGUST, 2023****BEFORE****THE HON'BLE MR JUSTICE S.G.PANDIT****WRIT PETITION NO. 18078 OF 2023 (GM-CPC)****BETWEEN:**

SRI. V. MOHAN KUMAR,
S/OF LATE VENKATAPPA,
AGED ABOUT 55 YEARS,
R/A NO.4, 1ST MAIN ROAD,
ANJANEYA TEMPLE ROAD,
JAYANAGAR, 1ST BLOCK,
BYRASANDRA EAST,
BANGALORE - 560 011.

...PETITIONER

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. S. SARAVANA, ADVOCATE)

AND:

SRI C.M. THAYANNA,
SINCE DEAD
REP BY LR'S

1. SMT. PARVATHAMMA,
W/O LATE C.M. THAYANNA,
AGED ABOUT 58 YEARS,
R/A NO.74, KANAKAPURA MAIN ROAD,
O.B. CHOODAHALLI, UTTARAHALLI HOBLI,
BANGALORE SOUTH TALUK,
BENGALURU - 560 082.

SRI. T. CHANDRA BABU,
SINCE DEAD
REP BY LR'S

2. SMT. RADHA N.,
W/O LATE T. CHANDRA BABU,





AGED ABOUT 31 YEARS.

3. MASTER KISHORE,
S/O LATE T.CHANDRA BABU,
AGED ABOUT 11 YEARS,

SINCE MINOR REPRESENTED BY
MINOR GUARDIAN AND NATURAL MOTHER
SMT. RADHA N.,

BOTH ARE RESIDING AT: NO.74,
KANAKAPURA MAIN ROAD,
O.B. CHOODAHALLI, UTTARAHALLI HOBLI,
BANGALORE SOUTH TALUK,
BENGALURU - 560 082.

4. SRI. T. MOHAN KUMAR,
S/O C.M. THAYANNA,
AGED ABOUT 40 YEARS.

5. SRI. T. VENKATESH,
S/O C.M. THAYANNA,
AGED ABOUT 38 YEARS,

RESPONDENTS NO.4 AND 5
ARE R/AT O.B. CHOODAHALLI,
KANAKAPURA ROAD,
UTTARHALLI HOBLI,
BANGALORE SOUTH TALUK,
BANGALORE - 560 082.

...RESPONDENTS

(BY SRI. S.G. HEGDE, ADVOCATE FOR R1 -R5)

THIS WP FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO ISSUE DIRECTION TO
TRIAL COURT TO CONSIDER IA NO. 4 DATED 07/04/2018
FIELD BEFORE THE PRINCIPLE SENIOR CIVIL JUDGE AND JMFC



AT NELAMANGALA IN MIS.PET.NO.17/2016 PRODUCED AT ANNEXURE-G AT EARLIEST AND ETC.,

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

ORDER

Heard learned senior counsel Sri D.R.Ravishankar and S.Saravana, learned counsel for petitioner and Sri S. G.Hegde for respondent Nos. 1 to 5 and perused the petition papers.

2. The petitioner is before this Court praying for a direction to the trial Court to consider IA No.4 filed before the Principle Senior Civil Judge and JMFC, Nelamangala in Mis.P No. 17/2016 and to proceed thereafter. Annexure-G application is filed under Section 151 of C.P.C praying for an enquiry on delay application i.e. IA No. 2 filed by the petitioner under Section 5 of the Limitation Act.

3. Today learned counsel appearing for the parties filed memorandum of compromise petition under Order XXIII Rule 3 R/w Section 151 of the Code of Civil Procedure. The terms of compromise reads as following:

"a) entire schedule property shall be developed into residential sites by Respondent No.6&7 as per



the clauses in-corporate under the JDA dated 05.08.2023.

b) The Respondents No.1 to 5 shall own 50% exclusive right, title & interest over developed schedule property as per JDA dated 05.08.2023, while remaining 50% of the schedule property shall be owned by the Respondents No.6&7.

c) In view of overall settlement between all the parties, the Petitioner shall receive a sum of Rs.1,50,00,000/-(Rupees One Crore Fifty Lakhs only) from the Respondent No.6&7 has full and final settlement and the Petitioner shall have no claims based on the registered Agreement of sale dated 29.03.2012.

iv. The Petitioner shall fine memo for withdrawing amount RS.50,00,000/-(Rupees Fifty Lakhs only) deposited before the Trial Court in Ex.Pet.No.30/15 in his favour and the Respondents shall have no claims for the same.

v. The Respondents No. 1 to 5 to withdraw O.S.No.411/2020 & O.S.No.413/2020 pending before the Hon'ble III Additional Civil Judge & JMFC at Nelamangala.

vi. That, if any default by the Petitioner and the Respondents in adoring the terms and conditions of the above, then either of the parties shall have



liberty to reopen/restore the above Miscellaneous & Execution petition to its original position."

4. Both learned counsel would submit that parties to compromise petition are present before this Court and they identified their parties.

5. On perusal of above compromise application, it is seen that compromise is not with regard to the Miscellaneous Petition No.17/2016, but it is with regard to O.S No.411/2020 and 413/2020. The Miscellaneous Petition No.17/2016 arises out of O.S No.329/2014.

6. Since, in this writ petition, petitioner has only sought for a direction to the learned Trial Judge to consider IA No.4 in Miscellaneous Petition No.17/2016, I am of the view that it is appropriate for the parties to file the compromise petition in the concern suit or Miscellaneous Petition.

7. With the above observation this Writ petition stands dismissed.

**Sd/-
JUDGE**

LDC
List No.: 1 Sl No.: 22
CT:SNN