

**IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

DATED THIS THE 12TH DAY OF AUGUST 2014

BEFORE

THE HON'BLE MR. JUSTICE H.BILLAPPA

WRIT PETITION NO.107243/2014 (GM-CPC)

BETWEEN

SRI.RAMACHANDRA S/O.KRISHNAPPA HEGDE
AGE: 85 YEARS, OCC: AGRICULTURE
R/O. BOMMANAHALLI GRAM, ASHISAR
TQ: SIRSI, DIST: KARWAR

... PETITIONER

(BY SRI.SURESH N.KINI, ADVOCATE)

AND

1. SRI.SURESH S/O.RAMACHANDRA HEGDE
AGE: 51 YEARS, OCC: AGRICULTURE & EMPLOYED
R/O.H.NO.489, APARTMENT NO. 001
11TH CROSS, GIRINAGAR, BANGALORE-85
2. SMT.LAXMI W/O.RAMACHANDRA HEGDE
AGE: 81 YEARS, OCC: HOUSEWIFE
R/O. BOMMANAHALLI GRAM ASHISAR
TQ: SIRSI, DIST: KARWAR
3. SRI.KRISHNA S/O.RAMACHANDRA HEGDE
AGE: 61 YEARS, OCC: AGRICULTURE
R/O. BOMMANAHALLI GRAM, ASHISAR
TQ: SIRSI, DIST: KARWAR

4. SRI.RAMESH S/O.RAMACHANDRA HEGDE
AGE: 49 YEARS, OCC: BUSINESS
R/O. BOMMANAHALLI GRAM, ASHISAR
TQ: SIRSI, DIST: KARWAR
NOW AT: 3855, BLAIRMILL ROAD
APARTMENT NO.213A, HORASHUM
PA 19044, USA
5. SMT.MAHADEVI W/O.RAMACHANDRA BHAGWAT
AGE: 59 YEARS, OCC: HOUSEWIFE
R/O. SIRSIMAKKI, TQ: SIRSI, DIST: KARWAR
6. SMT.YASHODA W/O.RAMAKRISHNA HEGDE
AGE: 57 YEARS, OCC: HOUSEWIFE
R/O. BASHETTIKERE, TQ: SIRSI
DIST: KARWAR
7. SMT.SAVITRI W/O.LAXMINARAYAN HEGDE
AGE: 55 YEARS, OCC: HOUSEWIFE
R/O. CHIPIGI, TQ: SIRSI, DIST: KARWAR
8. SMT.SUNANDA W/O.SHRIDHAR HEGDE
AGE: 53 YEARS, OCC:HOUSEWIFE
R/O. ARASIKERE, TQ SIRSI, DIST: KARWAR

... RESPONDENTS

(BY SRI.A.P.HEGDE JANMANE, ADVOCATE FOR C/R1;
R2 TO R8 NOTICE DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 10.07.2014 PASSED BY THE COURT OF SENIOR CIVIL JUDGE, SIRSI ON I.A.NO.X IN O.S.NO.11/2011 VIDE ANNEXURE-E AND CONSEQUENTLY DISMISS THE SAME.

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

ORDER

Notice to respondents 2 to 8 is dispensed with.

2. Heard the learned counsel for the petitioner and also the learned counsel for the respondent No.1

3. In this writ petition under Articles 226 and 227 of the Constitution of India, the petitioner has called in question the order dated 10.07.2014 passed by the trial Court in O.S.No.11/2011 on I.A.No.X vide Annexure-E.

4. By the impugned order at Annexure-E, the trial Court has allowed I.A.No.X and has directed the financial institutions mentioned in the application to furnish the details of the accounts held by the persons mentioned in the application.

5. Aggrieved by that, the petitioner has filed this writ petition.

6. Briefly stated the facts are:

The first respondent has filed suit in O.S.No.11/2011 for partition and separate possession of the suit properties. At the stage of evidence, the first respondent has filed I.A.No.X to direct the persons mentioned in the application to produce the documents relating to the accounts held by the petitioner, respondents 2 and 3 and the wife and children of respondent No.3. The trial Court by its order dated 10.07.2014 has allowed I.A.No.X and has directed the financial institutions mentioned in the application to furnish the details of the accounts of the petitioner, respondents 2 and 3 and the wife and children of the respondent No.3. Aggrieved by that, the petitioner has filed this writ petition.

7. The learned counsel for the petitioner contended that the impugned order cannot be sustained in law. He also submitted that the trial Court has erred while allowing I.A.No.X. Further he submitted that the trial Court has

directed the financial institutions to furnish the details of the accounts held by the wife and children of the third respondent i.e., Savita Krishna Hegde, Pradeep Krishna Hegde, Shilpa Pradeep Hedge and Sudhanva Pradeep Hegde which is not correct. There is no plea in the plaint regarding accounts held by the wife and children of the third respondent. In spite of that, the trial Court has directed to furnish the details of the accounts held by the wife and children of third respondent which is not correct. Therefore, the impugned order cannot be sustained in law.

8. As against this, the learned counsel for the first respondent submitted that the impugned order does not call for interference. He also submitted that the details of the deposits in respect of the petitioner, respondents 2 and 3 and the wife of the respondent No.3 are furnished in schedule-F. Subsequently, some amount has been transferred or deposited in the name of the wife and children of the third respondent. Therefore, the trial Court

has rightly allowed the application and the impugned order does not call for interference. He also submitted that if the details of the accounts held by the petitioner, respondents 2 and 3 and the wife and children of the respondent No.3 are furnished it will not prejudice the rights of the parties in any way. Therefore, the impugned order does not call for interference.

9. I have carefully considered the submissions made by the learned counsel for the parties.

10. The point that arise for my consideration is:
Whether the impugned order calls for interference?

11. It is relevant to note, the suit in O.S.No.11/2011 has been filed by the first respondent for partition and separate possession of the suit properties. The particulars of the deposits standing in the name of the petitioner, respondents 2 and 3 and the wife of respondent No.3 are furnished in Schedule-F. However, the details of the

accounts held by the children of respondent No.3 i.e., Pradeep Krishna Hegde, Shilpa Pradeep Hedge and Sudhanva Pradeep Hegde are not furnished. There is no plea in the plaint regarding the accounts held by the children of respondent No.3. No details are furnished in the affidavit filed in support of the application. While, the trial Court was justified in directing to furnish the details of the accounts held by the petitioner, respondents 2 and 3 and the wife of the respondent No.3, it was not justified in directing to furnish the details of the accounts held by Pradeep Krishna Hegde, Shilpa Pradeep Hedge and Sudhanva Pradeep Hegde, the children of the respondent No.3 who are not parties to the suit. Therefore, the impugned order needs to be modified to that extent.

12. Accordingly, the writ petition is allowed in part and the impugned order passed by the trial Court on I.A.No.X is modified directing the financial institutions mentioned in the application to furnish the details of the

accounts/deposits mentioned in Schedule-F to the plaint standing in the name of the petitioner, respondents 2 and 3 and the wife of the respondent No.3. Insofar as the children of respondent No.3 is concerned, the direction to furnish the details of their accounts is hereby set aside.

**Sd/-
JUDGE**

Vnp*