NC: 2023:KHC:27645
WP No. 17007 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE S.G.PANDIT

WRIT PETITION NO. 17007 OF 2023 (GM-CPC)

BETWEEN:

1. SRI C GANESH NARAYAN
   S/O LATE SRI C V NARAYAN,
   AGED ABOUT 44 YEARS,

2. SMT. C VALLI NARAYAN
   W/O LATE SRI C V NARAYAN,
   AGED ABOUT 79 YEARS,

   PETITIONER NO.1 AND 2 R/AT 2A,
   NITESH MAYFAIR,
   KASTURBA CROSS ROAD,
   BENGALURU -560001.

3. C NARAYAN HUF
   AT NO.44, OSBORNE ROAD,
   ULSOOR, BENGALURU -560042
   THROUGH ITS KARTA
   MR. GANESH NARAYAN.

...PETITIONERS

(BY MS. KRUTIKA RAGHAVAN, ADV.)

Digitally signed by PRAMILA G V
Location: HIGH COURT OF KARNATAKA

AND:

1. C V HAYAGRIV
   S/O LATE C VENKATACHALAPATHY CHETTY,
   AGED ABOUT 81 YEARS,

2. MS. VISALA HAYAGRIV
   W/O MR. C V HAYAGRIV,
   AGED ABOUT 78 YEARS,

3. MR. C VINOD HAYAGRIV
   S/O MR. C V HAYAGRIV

ALL R/AT "KRISHNA PRASAD"
1/34, ULSOOR ROAD,
W H HANUMANTHAPPA LAYOUT,
BANGALORE-560042.

4. C V HAYAGRIV HUF
"R/AT KRISHNA PRASAD"
1/34, ULSOOR ROAD,
W H HANUMANTHAPPA LAYOUT,
BANGALORE-560042.

…RESPONDENTS

(BY M.S. KALRA, ADV.)

THIS PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 14.07.2023 PASSED IN OS 1265/2023 BY XI ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE (ANNX-A); RECAST THE ISSUES IN OS 1265/2023 BY THE XI ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE IN TERMS OF THE DRAFT ISSUES FRAMED BY THE PETITIONERS. AND ETC.

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

ORDER

Learned counsel Sri.M.S.Kalra accepts notice for respondent Nos.1 to 4.

2. Heard the learned counsel for the petitioners/defendants in O.S.No.1265/2023 on the file of the XI Additional City Civil Judge, Bangalore City (C.C.H.No.8) (for short, 'Trial Court') are before this Court questioning the correctness of order dated 14.07.2023.

3. Learned counsel for the petitioners would submit that petitioners are before this Court questioning the order dated 14.07.2023 whereby the Trial Court rejected the draft issues filed by plaintiffs/defendants and proceeded to frame issues. Learned counsel would submit that the Court in its order dated 14.07.2023 observes that on the basis of the pleadings of the parties, issues have been framed. But, it is submitted that the issues are not framed on the basis of the pleadings of the parties and Trial Court failed to frame proper issues based on the pleadings of the parties.

4. Order XIV Rule 5 of CPC empowers the Court to amend issues or frame additional issues at any time before passing a decree. If the petitioners/defendants are of opinion that the issues framed are not based on the pleadings of the parties, they could very well file application under Order XIV Rule 5 of CPC and bring it to the notice of the Court that issues framed are not based

on the pleadings and would pray for framing of proper issues or to re-cast the issues.

With the above observation, writ petition stands disposed of.

Sd/-
JUDGE

NC
CT:bms
List No.: 1 Sl No.: 52