NC: 2025:KHC:10525
WP No. 3226 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

WRIT PETITION NO. 3226 OF 2023 (KLR-RR/SUR)

BETWEEN:

SMT RUDRAMMA @ AKKAMMA
SINCE DEAD BY LR'S

1(A) SMT. LEELAVATHI,
W/O N. APPAJANA,
AGED ABOUT 66 YEARS,
RESIDING AT NO.94,
31ST CROSS, 7TH BLOCK,
JAYANAGAR, BENGALURU - 560 082.

...PETITIONER

(BY SRI. K. VIJAY KUMAR, ADVOCATE
FOR LRS OF DECEASED PETITIONER.)

AND:

1. THE DEPUTY COMMISSIONER,
CHIKKABALLAPURA TALUK,
CHIKKABALLAPUR - 562 101.

2. THE ASSISTANT COMMISSIONER,
CHIKKABALLAPURA SUB DIVISION,
CHIKKABALLAPURA - 562 101.

3. THE TAHSILDAR
SHIDLAGHATTA TALUK,
SHIDLAGHATTA - 562 105.

4. SMT NYANAMMA
SINCE DEAD BY HER LR'S

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NANDINI B G
Location: High
Court of Karnataka

4(A) SMT. BADRAMMA,
W/O LATE JAYANNA,
D/O NYANAMMA & BASAPPA,
AGED ABOUT 61 YEARS,

4(B) SMT. UMADEVI .K.,
W/O LATE VIJAYAKUMAR,
D/O NYANAMMA & BASSAPPA,
AGED ABOUT 50 YEARS,

4(C) B. UDAYAKUMAR
S/O LATE N. BASAPPA
AGED ABOUT 57 YEARS,

4(D) B. SHASHIKUMAR @ VEERABHADRA,
S/O LATE N. BASAPPA
AGED ABOUT 50 YEARS,

ALL ARE RESIDING AT URATA
AGRAHARA VILLAGE, SANTHEKALLAHALLI POST,
VEMAGAL HOBLI, KOLAR TALUK AND DISTRICT.

4(E) SMT. B. VIMALA
D/O LATE N. BASAPPA,
W/O N.S. MALLIKARJUNA,
AGED ABOUT 53 YEARS,
R/A NO.1249, 3RD CROSS,
WEST L.N. COLONY, KERALA
SAMAJAM ROAD, YESWANTHAPURA,
BENGALURU - 560 022.

5. SMT. BASAMMA,
W/O LATE SHIVANAYYA @ SHIVNAPPA,
AGED ABOUT 53 YEARS,
R/A URATI AGRAHARA VILLAGE,
VEMAGAL HOBLI,
KOLAR DISTRICT - 563 102.

…RESPONDENTS

(BY SMT. SAVITHRAMMA, AGA FOR R1 TO R3.
SRI. H.S. SANTHOSH, ADVOCATE FOR R4(A) TO R4(E))

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS FROM THE OFFICE OF THE R1 TO 3 IN RESPECT OF PROCEEDINGS RRT(D)-CR-35/2019-20 DTD 17.8.2020 AND R.A.NO.08/2020-21 DTD 20.1.2023 AT ANNEXURE-B AND D AND ETC.,

THIS W.P., COMING ON FOR PRELIMINARY HEARING - B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE N S SANJAY GOWDA

ORAL ORDER

The husband of the petitioner and his brothers entered into a partition and on the basis of this partition, applications were made to mutate their respective names.

2. Learned counsel points out that pursuant to said order of partition, three orders of mutation were made in MR No.6/98-99 (Annexure H1), MR No.228/4 96-97 (Annexure H2) and MR No.57/2006-07 (Annexure H3).

3. According to the learned counsel, the husband of the petitioner namely S.Shivanaiah @ Shivanappa did make an application along with his two brothers N.Veerabhadrapaa and N.Basappa and this resulted in MR No.6/98-99, in which, the name of S.Shivanaiah @ Shivanappa was entered only in

respect of Sy.No.24/2 measuring 3 guntas though under the partition, he was granted other survey numbers also.

4. This particular argument of the petitioner would therefore indicate the name of the petitioner's husband was entered only in respect of one survey number though it is claimed that he had been allotted more than one survey number. However, for the reasons best know to S.Shivanaiah @ Shivanappa @ Shivanappa, he did not challenge this order of mutation that had been made in his favour only in respect of Sy.No.24/2.

5. Subsequently, N.Basappa, who was a party to the partition passed away and his wife Nyanamma made an application for mutating her name as per MR No.31/11-12 and this order was challenged by petitioner. The Assistant Commissioner allowed the appeal and remanded the matter for fresh consideration.

6. On remand, the Tahasildar passed an order of mutation in favour of the petitioner and as against this order of mutation, respondent No.4-Nyanamma preferred revision. The Deputy Commissioner has allowed the said revision and has

directed the petitioner to approach the civil court and obtain an appropriate decree and the entries would thereafter abide by the result of the said decree.

7. Learned counsel for the petitioner points out that this partition between the siblings were accepted by all the siblings in more than one suit and therefore, in principle, the lands allotted under the partition will have to be accepted with revenue authorities and mutation will have to be made.

8. He submits that mutation has not been made in accordance with the terms of the Palupatti and a lesser extent has been mutated in favor of the petitioner's husband, which should be fundamentally incorrect.

9. As already stated above, on the request of the petitioner's husband, only one survey number was mutated in his favor and the petitioner's husband did not seek it appropriate to challenge the said proceedings. If the husband of the petitioner had accepted the mutation made in his favour, it is obviously not permissible for the wife to contend nearly 20 years thereafter that the mutation made in favour of her husband was improper. Consequently, the direction by the

Deputy Commissioner to the petitioner to approach the Civil Court and secure a decree cannot be found fault with.

10. If the petitioner were to approach the Civil Court and obtain a declaration that her husband was granted more than one survey number under the partition, it is obvious that revenue authorities would be bound by the decree, and they would have to necessarily change the entries in favor of the petitioner.

11. It is needless to state that in these proceedings, the claim of the other wife of S.Shivanaiah @ Shivanappa i.e, respondent No.5-Basamma will also have to be adjudicated and a decree be passed in her presence. Subject to the above, writ petition is ***disposed of***.

Sd/-
(N S SANJAY GOWDA)
JUDGE

BH
List No.: 1 Sl No.: 39