



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

WRIT PETITION NO. 8205 OF 2024 (GM-CPC)

R

BETWEEN:

SMT. MEERA M.R
W/O H S VIJAYA KUMAR
AGED ABOUT 69 YEARS
NO.1 4TH A MAIN ROAD
HEBBAL, BENGALURU - 560 024.

...PETITIONER

(BY SRI KRISHNA MURTHY T.R, ADV.)

AND:

SRI GANGADHARA
S/O LATE DODDA KEMPAIAH
@ DODDA KEMPANNA
R/O NAGADASANAHALI VILLAGE
YELAHANKA HOBLI/TALUK
SINGANYAKANAHALLI POST
BENGALURU - 560 064.

...RESPONDENT

(BY SRI MAHESH S.B, ADV.,
SRI VARADARAJ P.N, ADV.)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER PASSED ON IA NO. 2 DATED 11.12.23 AND IA NO. 4 DATED 2.2.24 IN P AND SC NO. 24/2021 (ANNX-A AND A1 PAGE NO.20 TO 30) AND THEREBY DISMISS THE APPLICATION IN IA NO. 2 FILED BY THE RESPONDENT BEFORE THE HONBLE LXII ADDITIONAL CITY CIVIL AND SESSION JUDGE (CCH-63), AT BENGALURU.





THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. This writ petition under Article 227 of the Constitution of India is filed with a prayer to set-aside the order dated 11.12.2023 passed on IA No.2 and order dated 02.02.2024 passed on IA No.4 in P & SC No.24/2021 by the Court of LXII Addl. City Civil and Sessions Judge, Bengaluru.

2. Heard the learned counsel for the parties.

3. Petitioner herein had filed P & SC No.24/2021 before the jurisdictional Civil Court at Benglauru with a prayer to grant Letter of Administration in respect of the Will executed by the Testator (Smt. Jayamma) on 19.02.2007. In the said proceedings, paper publication was issued and since no objectors had come forward, the Trial Court had proceeded to record the evidence on behalf of the petitioner. On behalf of the petitioner, she had examined herself as PW1 and another witness was examined as PW2. 14 documents were got marked on behalf of the petitioner as Exs.P1 to P14 and thereafter arguments were heard by the Trial Court and the matter was



posted for orders. At that stage, IA No.2 was filed by the respondent herein under Order I Rule 10 read with Section 151 of CPC to implead him as party respondent in P & SC No.24/2021. The application was opposed by the petitioner by filing statement of objections. The Trial Court vide the impugned order has allowed the said application on 11.12.2023. Subsequently, IA No.4 was filed by the petitioner under Section 152 of CPC with a prayer to make certain corrections in the order dated 11.12.2023. The said application was allowed on 02.02.2024. Assailing the aforesaid two orders, petitioner is before this Court.

4. Learned counsel for the petitioner having reiterated the grounds urged in the petition submits that respondent claims to be tenant in respect of the property which is the subject matter of the Will executed in favour of the petitioner. Respondent has no right of inheritance over the said property. Therefore, the Trial Court was not justified in allowing the application.

5. Per contra, learned counsel for the respondent has argued in support of the order impugned and submits that his



claim before the jurisdictional Land Tribunal for grant of occupancy rights of the land in dispute under the provisions of the Karnataka Land Reforms Act, 1961, is pending consideration. In the event, the prayer made in P & SC No.24/2021 is allowed, petitioner may alienate the property.

6. Petitioner herein, who claims to be the daughter-in-law of deceased Smt. Jayamma has contended in her petition in P & SC No.24/2021 that item No.1 of the petition schedule property belonged to her father-in-law late Sri. H. G. Shammanna and after his death, the said property bearing Sy.No.13/2 measuring 1 acre 28 guntas was transferred to the name of her mother-in-law and the revenue entries in respect of the said lands were also transferred in her name. Item No.2 of the petition schedule premises was allotted to the share of Smt. Jayamma under a partition decree in OS No.253/1998 and during the life time of Smt. Jayamma, she had executed a Will in respect of the petition schedule properties in favour of the petitioner on 19.02.2007. According to the respondent, he has filed Form No.7A under the provisions of the Karnataka Land Reforms Act, 1961, claiming occupancy rights of item No.1 of



the petition schedule property bearing Sy.No.13/2 measuring 1 acre 28 guntas and his claim is pending consideration. Undisputedly, he does not claim any independent right over any of the petition schedule properties nor does he claim right over the petition schedule properties by way of inheritance. As a matter of fact, respondent is a person who has claimed occupancy rights of the petition schedule item No.1 property and therefore, claim of the petitioner is adverse to the interest of deceased testator.

7. The material produced on record would go to show that Smt. Jayamma had opposed the claim of the petitioner for grant of occupancy rights and the matter had reached this Court in WP No.37253/2016 and during the pendency of the said petition, Smt. Jayamma had died and considering the Will executed by Smt. Jayamma, this Court had permitted the petitioner herein to come on record as the legal representative of deceased Smt. Jayamma in WP No.37253/2016.

8. A person, who claims interest adverse to the interest of the Testator cannot be allowed to come on record and oppose the Will executed by the Testator nor can such a



person be considered as a person having caveatable interest. It is not the case of the respondent that he is a heir under succession who would be otherwise benefited if the Will were to be invalidated. A caveator or objector in a probate proceedings should be able to demonstrate that the claim made for grant of probate, prejudices his right because it defeats some other line of succession under which caveator/objector asserts his right over the property which is the subject matter of the Will. Whether the grant of probate or letter of administration would prejudice the right of caveator/objector would be a parameter to consider whether the caveator/objector is a party, who is required to be heard in probate proceedings. If only the caveator/objector is in a position to show that if the grant of probate or letter of administration is made, it will defeat his claim of succession or inheritance to the estate of the deceased for the reason that it defeats some other line of succession, however small the said interest may be, then it can be said that the caveator/objector is a necessary party to the probate proceedings.



9. In the present case, respondent does not dispute that there is no kinship or that he is not entitled to inherit the property of the deceased. His only contention is that he has filed Form No.7A claiming occupancy rights of the land which is the subject matter of the Will and as stated earlier, the Testator Smt. Jayamma during her life time had opposed the grant of occupancy rights of the said land in favour of the respondent herein. Therefore, I am of the opinion that the Trial Court was not justified in allowing the impleading application filed by the respondent. Accordingly, the following order:-

10. The writ petition is allowed. The impugned order dated 11.12.2023 passed on IA No.2 in P & SC No.24/2021 by the Court of LXII Addl. City Civil and Sessions Judge, Bengaluru, is set-aside and consequently, the prayers made in IA Nos.2 and 4 are rejected.

**Sd/-
(S VISHWAJITH SHETTY)
JUDGE**