IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO.201009 OF 2025 (GM-CPC)

BETWEEN:

1. SMT. NEKKANTI PADMAVATHI
W/O LATE VENKAT RAO,
AGE: 59 YEARS,
OCC: AGRICULTURE & HOUSEHOLD,
R/O SASALMARI CAMP,
TQ: SINDHANUR, DIST: RAICHUR.

2. NEKKANTI MADHU
S/O LATE VENKAT RAO,
AGE: 38 YEARS, OCC: AGRICULTURE,
R/O SASALMARI CAMP,
TQ: SINDHANUR, DIST: RAICHUR.

3. SMT. GEETASHREE D/O LATE VENKAT RAO,
W/O SESHAGIRI, AGE: 31 YEARS,
OCC: HOUSEHOLD, R/O SASALMARI CAMP,
TQ: SINDHANUR, DIST: RAICHUR.

Digitally signed by VARSHA N RASALKAR
Location: HIGH COURT OF KARNATAKA

...PETITIONERS

(BY SRI. SHAMBULING S. SALIMATH, ADVOCATE)

AND:

G. JAYANNAS/O SHIVARUDRAPPA,
AGE: 75 YEARS, OCC: BUSINESS,
R/O NATARAJ COLONY, SINDHANUR,
TQ. SINDHANUR, DIST. RAICHUR-584 101.

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI THEREBY QUASHING THE IMPUGNED ORDER DATED 15.03.2015 ON THE FILE OF SENIOR CIVIL JUDGE AT LINGASUGUR SITTING AT SINDHANUR ON I.A. NO.16 IN O.S. NO.131/2014 (69/2011) AS PER ANNEXURE-F AND ALLOW THE SAME AND ETC.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL ORDER

(PER: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA)

Heard Sri Shambuling Salimath, learned counsel for the writ petitioners.

2. Seeking a writ in the nature of certiorari quashing the order that was rendered by the Court of Senior Civil Judge, Lingasugur, sitting at Sindhanur on I.A.No.16 in O.S.No.131/2014 dated 15.03.2025 (wrongly mentioned as 15.03.2015 in the prayer portion of the writ petition), this writ petition is filed.

3. Learned counsel for the writ petitioners submits that the petitioners filed a suit for declaration of ownership of the suit property, for perpetual injunction and possession and for declaration of a sale deed in respect of suit property as null and void. The defendant appeared and filed his written statement. Thereafter, issues were framed and trial went on. The Trial Court without considering the merits of the case, rendered judgment on 04.10.2018. The petitioners filed an appeal i.e., R.A.No.80/2018 and the said appeal was dismissed by the Court of Principal District and Sessions Judge, Raichur. Then, the petitioners preferred second appeal i.e., RSA No.200302/2019 before this Court. This Court allowed the appeal on 14.02.2024 and remanded the matter back to the Trial Court to consider the same afresh. Thereafter, an application was filed seeking the Court to recall DW.2 for cross-examination. But, the said application was dismissed and aggrieved by the same, this writ petition is filed. Learned counsel thereby seeks to allow the writ petition and quash the impugned order.

4. By the submission that is made by the learned counsel for the writ petitioners and upon going through the material that is brought on record, more particularly, the impugned order, the following facts are clear:

i) The chief affidavit in lieu of chief-examination of DW.2 was filed on 19.03.2018.

ii) As the petitioners/plaintiffs did not choose to cross-examine DW.2, the Trial Court by order dated 14.08.2018 took the cross-examination as nil.

iii) Judgment was pronounced by the Trial Court on 04.10.2018.

iv) On dismissal of the first appeal that was filed by the petitioners, second appeal was filed.

v) This Court allowed the second appeal i.e., RSA N.200302/2019 by judgment dated 14.02.2024 and remanded the matter to the Trial Court to consider the matter afresh.

vi) Through the judgment in the second appeal itself, a direction was issued to both parties to appear before the Trial Court on 21.03.2024 at 11.00 a.m.

vii) I.A.No.16 seeking the Court to recall DW.2 for further cross-examination was filed on 10.03.2025.

5. In the writ petition filed, more particularly at para 4, the petitioners contended that after remanding the matter back, DW.2 was examined. However, learned counsel for the writ petitioners submits before the Court that DW.2 was examined in chief prior to the date of judgment itself. The material on record makes it clear that the chief affidavit of DW.2 was filed on 19.03.2018 itself. The evidence of DW.2 was closed on 14.08.2018, as the petitioners failed to cross-examine DW.2 despite granting sufficient time. Even after the matter was remanded to the Trial Court through the judgment in the second appeal dated 14.02.2024, the petitioners kept quite till

10.03.2025. Even taking the date of appearance as 21.03.2024 which is clear from the judgment in the second appeal, the petitioners kept quite for about one long year without moving any application seeking the Court to recall DW.2 for cross-examination. Perceiving all these facts, the Trial Court came to a conclusion that there are no grounds to entertain the request of the petitioners. The order of the Trial Court, therefore, is valid on all counts. This Court does not find any reason to exercise the writ jurisdiction and to quash the impugned order. The writ petition wholly lacks merits.

6. Therefore, the writ petition stands dismissed.

Sd/-
(Dr.CHILLAKUR SUMALATHA)
JUDGE

LG
List No.: 1 Sl No.: 28