IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 1ST DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE R.NATARAJ

WRIT PETITION NO.203365 OF 2024 (GM-CPC)

BETWEEN:

MD. YASEEN SHAH
S/O LATE MEHBOOB SHAH,
AGE: 62 YEARS, OCC: AGRICULTURE,
R/O H.NO.7/184, MAILOOR ROAD,
NEAR GODPWN, BIDAR

...PETITIONER

(BY SRI. GURURAJ GOPALRAO, ADVOCATE)

AND:

1. ABUL KHADEER
   S/O ABDUL JALEEL,
   AGE ABOUT 62 YEARS, OCC:. AGRICULTURE,
   R/O VILLAGE MAILOOR,
   TQ. AND DIST. BIDAR.

2. ABDUL KHAREEM
   S/O ABDUL YASEEN SAB,
   AGE ABOUT 72 YEARS, OCC: AGRICULTURE,
   R/O VILLAGE MAILOOR,
   TQ. AND DIST. BIDAR

3. SHAMSUNDER
   S/O RAMCHANDRAIH,
   OCC: BUSINESS,
   R/O VILLAGE MAILOOR,
   TQ. AND DIST.BIDAR,
   NOW R/AT CHAITANYAPURI,

Digitally signed by SACHIN
Location: High Court Of Karnataka

BEHIND PETROL PUMP, HYDERABAD,
TELANGANA STATE, DIED BY LRS.,

3A) SINGARAPU SRINIVAS
S/O S SHYAMA SUDARESHAM,
AGED ABOUT 35 YEARS,
OCC: BUSINESS,
R/O H.NO.1-11-129/1/2,
ROAD NO.3, SHOBHAJAPUPRAM COLONY,
HYDERABAD.

B) SINGARAPU NAGARAJ
S/O S SHYAMA SUDARESHAM,
AGED ABOUT 45 YEARS,
OCC: BUSINESS,
R/O H.NO.1-11-129/1/2,
ROAD NO.3, SHOBHAJAPUPRAM COLONY,
HYDERABAD.

4. VIJAY KUMAR
S/O LATE RAMAGAOAJ,
AGED ABOUT 70 YEARS,
OCC: BUSINESS,
R/O H.NO.4-1-188,
SR COMPLEX, VIKARABAD.

…RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DATED 17.09.2024 PASSED ON I.A NO. 19 IN OS NO. 58/2017 BY THE PRL SENIOR CIVIL JUDGE AND CJM, BIDAR VIDE ANNEXURE-J AND KINDLY PASS THE ORDER AND DIRECT THE TRAIL COURT TO IMPLEAD THE PETITIONER AS A PARTY IN OS NO. 58/2017 AS DEFENDANT.

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

CORAM: HON'BLE MR. JUSTICE R.NATARAJ

ORAL ORDER

The proposed defendant in OS No.58/2017 has filed this writ petition challenging the correctness of the order dated 17.09.2024 by which his application to come on record in the suit was rejected.

2. (i) The suit in OS No.58/2017 was filed for specific performance of an oral agreement dated 18.03.2002 agreeing to sell the suit property for a sum of Rs.17,93,750/-. It was alleged that the defendant had received a sum of Rs.5,00,000/- and had delivered the possession of the suit property to the plaintiff. It was contended that the defendant was postponing the execution of the sale deed in view of pendency of OS No.80/2005 and RA No.43/2006. Plaintiff claims that though he again approached in January 2016, he did not execute the sale deed but received a sum of Rs.7,94,000/- and executed a fresh agreement of sale. It was agreed that the sale deed would be executed after obtaining a survey sketch in Form 11E. Since, the defendant failed to

execute the sale deed, the plaintiff filed the suit for specific performance.

(ii) The suit was contested by the defendant. When the suit was listed for evidence, an application was filed by the petitioner herein to come on record as one of the defendants. The petitioner claimed that he is the real owner of the suit property. He claimed that the suit property was owned and possessed by late Mehaboob Shah and therefore, neither the plaintiff nor the defendant was concerned with the suit property, but the plaintiff had created a false and bogus sale agreement in his favour. Therefore, the petitioner proposed to come on record in the suit to deny the title of the defendant to the suit property.

(iii) This application was opposed by the plaintiff and defendant, who denied the assertions made in the affidavit accompanying the application. The plaintiff contended that the petitioner was a stranger to the suit property and if, he has any right, he has to agitate the same in a separate suit and not by filing an application. The defendant also

claimed that if the petitioner has any right in respect of the suit property, he has to work out his remedy before the Civil court and cannot question the sale deed executed in his favour in the year 1965. Based on these contentions, the Trial Court held that allowing the petitioner to come on record in the suit would enlarge the scope of the suit and would result in a dispute interse between the defendants. Consequently, it rejected the application filed by the petitioner. Being aggrieved by the said order, the petitioner is before this Court.

3. Learned counsel for the petitioner contended that the suit property belongs to the father of the petitioner and that a false document was executed by the uncle of the petitioner in favour of the defendant. Therefore, he contended that the defendant, though having no title has now entered into an agreement of sale with the plaintiff and thereby tried to encumber the property, which belongs to the petitioner.

4. It appears that the defendant in the suit had claimed title to the suit property in terms of a sale deed executed in the year 1965 by Abdul Rehman Shah S/o Mehboob Shah. Therefore, the question whether the defendant had title to the suit property or not cannot be gone into at the instance of the proposed defendant/petitioner herein. If, the petitioner has any independent right to the suit property, he has to work out his remedy in a separate suit and not by coming on record in the suit filed for specific performance, as allowing the application would result in an interse between the defendants. Therefore, the Trial Court has rightly disallowed the application filed by the petitioner.

5. Accordingly, the petition lacks merit and the same is ***dismissed***.

Sd/-
(R.NATARAJ)
JUDGE

NJ
LIST NO.: 1 SL NO.: 24 CT:SI