

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 22ND DAY OF JULY, 2010

BEFORE

THE HON'BLE MR.JUSTICE AJIT J.GUNJAL

WRIT PETITION No.64354-55/2009 &
WRIT PETITION No.64355/2009(GM-CPC)

BETWEEN:

SMT.HALIMABI
W/O MAHAMADJAFAR MANDALI
AGE:68 YRS, OCC:HOUSEHOLD
R/O HANGAL
DIST:HAVERI.

...PETITIONER

(BY SRI.SADIQ N.GOODWALA, ADV.)

AND:

1. KHAMARUNNISSA W/O KHSIMSAB KARACHAGI
AGE:MAJOR, OCC:HOUSEHOLD WORK
R/O MANDAL ONI, BANKAPUR
TQ:SHIGGAON
2. MAHAMMADHUSEN MAHAMMADGOUSE PATAVEGAR
AGE:MAJOR, OCC:AGRICULTURE
R/O KANCHAGAR ONI, HANGAL
3. ABDULGAFFAR MAHAMMAGOUSA PATAVEGAR
AGE:MAJOR, OCC:AGRICULTURE
R/O KANCHAGAR ONI, HANGAL
4. SMT.RAMEJABI W/O MAHAMMADYUSUF PATAVEGAR
AGE:MAJOR, OCC:HOUSEHOLD
TQ:HALLATTI, TQ:HANGAL
5. ABDULKHADAR MAHAMMADYUSUF PATVEGAR
AGE:MAJOR, OCC:COLLIE

R/O HALLATTI, TQ:HANGAL

6. SMT.MAMTAJABI W/O MAHAMMADSHA PAPANNAVAR
AGE:MAJOR, OCC:HOUSEHOLD
R/O HALLATTI, TQ:HANGAL
7. SMT.KHATEJABI W/O HAJARESAB PATAVEGAR
AGE:58 YRS, OCC:HOUSHOLD WORK
R/O INDIRANGAR, HANGAL
8. BHASIRAHAMMAD S/O HAJARESAB PATVEGAR
AGE:40 YRS, OCC:COOLIE
R/O INDIRA NAGAR, HANGAL
9. MAZIDAHAMMAD S/O HAJARESAB PATAVEGAR
AGE:36 YRS, OCC:AGRICULTURE & BUSINESS
R/O INDIRA NAGAR, HANGAL
10. NOORAHAMMAD S/O HAJARESAB PATAVEGAR
AGE:34 YRS, OCC:AGRI AND BUSINESS
R/O INDIRA NAGAR, HANGAL
11. SMT.DILSHABI W/O ABULHAMEED GUDAGERI
AGE:32 YRS, OCC:HOUSEHOLD
R/O M.S.COLONY, MADGAON (GOA)
12. SARABI W/O NAJEERAHAMMAD PATAVEGAR
AGE:MAJOR, OCC:HOUSEHOLD
R/O HANGAL
13. ABDULRAJAK NAZEERAHAMMAD PATVEGAR
AGE:MAJOR, OCC:HOUSEHOLD
R/O YALLAPUR, OLD HUBLI
14. SMT.AMEENABI W/O KAHALIDSAB KALBURGI
AGE:MAJOR, OCC:HOUSEHOLD
R/O YALLAPUR ONI, HUBLI
15. HURAMBI D/O NAZEERAHAMMAD PATAVEGAR
AGE:MAJOR, OCC:HOUSEHOLD
R/O HANGAL

16. ANWARSAB ABDULRAJAK MANDALE
AGE:MAJOR, OCC:BUSINESS
R/O HANGAL.

...RESPONDENTS

(BY SRI.RAVI HEGDE, ADV FOR R2 TO 6, 12, 13 AND 15,
R1, 7 AND 10 ARE SD)

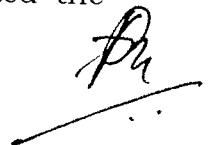
THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 08.06.2009 PASSED BY THE CIVIL JUDGE (JR.DN) AND JMFC., HANGAL IN O.S.NO.40/01 ON I.A.NO.IV AND ALSO ORDER DATED 08.06.2009 PASSED BY THE CIVIL JUDGE (JR.DN)AND JMFC., HANGAL IN O.S.NO.40/01 ON I.A.NO.V VIDE ANNEXURE-G & H AND ETC.,

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. Defendant No.6 in the suit having died, an application is made by the plaintiff-petitioner to bring the legal representatives on record.
2. Incidentally, it is to be noticed that the application to bring the legal representatives is filed after lapse of 90 days. The learned trial Judge has declined to entertain the said application on the ground that no application for setting aside the abatement is forthcoming.
3. Apparently, the learned trial Judge is hypertechnical.

Be that as it may, on 10.02.2010 this court permitted the



plaintiff-petitioner to bring the legal representatives of deceased defendant No.6 on record in the pending suit.

4. Learned counsel for the petitioner submits that pursuant to the order passed by this court on 10.02.2010, an application is made and the legal heirs have already come on record and cause-title is amended. When that is the case, I am of the view that the impugned order is liable to be set aside. Hence, the following order:

- i) Petition is allowed,
- ii) The impugned order is set aside.

Sd/-
JUDGE

Jm/-

NOTE: In any language, two things are essential; grammar and sense. Both are missing in the impugned order. Indeed, the language employed by the learned trial Judge is

atrocious and it certainly takes lot of time for the court as well as counsel appearing for the parties to understand as to what the learned trial Judge proposes to say. In fact, one of the learned counsel submitted that as he understands or as he understood the order and tried to convey the meaning. But, however, his attempt also failed. The photocopy of this order and also the impugned order be sent to the Administrative Judge where the Judicial Officer is working now.

A handwritten signature, possibly 'P3', is written above a long diagonal line that extends from the bottom left towards the right.