

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 28<sup>TH</sup> FEBRUARY, 2017

BEFORE

THE HON'BLE MR. JUSTICE L.NARAYANA SWAMY

WRIT PETITION NO.71109/2012 (GM-CPC)

BETWEEN

1. GANGAWWA W/O. LAXAMAPPA MUTTENNAVAR  
AGE: 81 YEARS, OCC: HOUSEHOLD WORK  
R/O. MASTAMARDI, TQ: BAILHONGAL,  
DIST: BELGAUM
2. SMT.MALLAWWA W/O. KALLAPPA CHIKKARAI  
AGE: 62 YEARS, OCC: HOUSEHOLD WORK  
R/O. CHANDRAGIRI HONNAPUR  
TQ & DIST: DHARWAD
3. SMT.LAXAMAWWA W/O. MAILAPPA HONABARATTI  
AGE: 59 YEARS, OCC: HOUSEHOLD WORK  
R/O. CHANDRAGIRI HONNAPUR  
TQ & DIST: DHARWAD
4. SMT.DEMAWWA W/O. SATTEPPA TAPALI  
AGE: 61 YEARS, OCC: HOUSEHOLD WORK  
R/O. CHANDRAGIRI HONNAPUR  
TQ & DIST: DHARWAD
5. SMT.TIPPAWWA W/O. MALLAPPA MUTTENNAVAR  
AGE: 61 YEARS, OCC: HOUSEHOLD WORK  
R/O. MASTAMARDI, TQ: BAILHONGAL  
DIST: BELGAUM

6. SMT.LAXAMAWWA W/O. CHANDRAPPA NAVALAGATTI  
AGE: 39 YEARS, OCC: HOUSEHOLD WORK  
R/O. HOSAKOTI, TQ: BAILHONGAL,  
DIST: BELGAUM
7. SHRI LAXMAN S/O. MALLAPPA MUTTENNAVAR  
AGE: 29 YEARS, OCC: AGRICULTURE  
R/O. MASTAMARDI, TQ: BAILHONGAL,  
DIST: BELGAUM
8. SHRI DURAGAPPA S/O. MALLAPPA MUTTENNAVAR  
AGE: 25 YEARS, OCC: AGRICULTURE  
R/O. MASTAMARDI, TQ: BAILHONGAL,  
DIST: BELGAUM
9. SMT.ANNAWWA W/O. KAREPPA KUMARI  
AGE: 51 YEARS, OCC: HOUSEHOLD WORK  
R/O. MASTAMARDI, TQ: BAILHONGAL,  
DIST: BELGAUM
10. SMT.FAKIRAWWA W/O. TIPPANNA PENDARI  
AGE: 49 YEARS, OCC: HOUSEHOLD WORK  
R/O. KARAGUPPI, TQ: BAILHONGAL  
DIST: BELGAUM

... PETITIONERS

(BY SRI RAHUL R & MAHANANDA R, ADVOCATES)

AND

1. SMT.BASAWWA  
W/O. SANNAMEALLAPPA MUTTENNAVAR  
AGE: 75 YEARS, OCC: HOUSEHOLD WORK  
R/O. MASTAMARDI, TQ BAILHONGAL,  
DIST: BELGAUM

2. SMT.ADIVEWWA @ SHARAWWA  
W/O. SHIDDAPPA MODAGI  
AGE: 50 YEARS, OCC: HOUSEHOLD WORK  
R/O. JANATA PLOT, VANTAMURI COLONY  
MALMARUTI EXTENSION, BELGAUM  
PRESENTLY R/AT: MASTAMARADI,  
TQ: BAILHONGAL, DIST: BELGAUM
3. SHRI LAXMAPPA  
S/O. SANNAMEALLAPPA MUTTENNAVAR  
AGE: 48 YEARS, OCC: AGRICULTURE  
R/AT: MASTAMARADI,  
TQ: BAILHONGAL, DIST: BELGAUM
4. SHRI SHIVAPPA  
S/O. SANNAMEALLAPPA MUTTENNAVAR  
AGE: 45 YEARS, OCC: SERVICEMAN  
R/O. MUTAGA, TQ: & DIST: BELGAUM
5. SMT.GANGAWWA W/O. BASAPPA KUNDARAGI  
AGE: 40 YEARS, OCC: HOUSEHOLD WORK  
R/O. MASTAMARDI, TQ: BAILHONGAL,  
& DIST: BELGAUM
6. SMT.RATNAWWA W/O. BALLAPPA MUTTENNAVAR  
AGE: 55 YEARS, OCC: HOUSEHOLD WORK  
R/O. PANAJI, GOA, NOW R/AT:  
C/O. SHIVAPPA SANNAMEALLAPPA MUTTENNAVAR  
NIRMAL NAGAR, MODAGA,  
TQ & DIST: BELGAUM, PRESENTLY AT  
MASTAMARDI, TQ: BAILHONGAL, DIST: BELGAUM
7. SHRI NINGAPPA S/O. BALLAPPA MUTTENNAVAR  
AGE: 28 YEARS, OCC: AGRICULTURE  
R/O. PANAJI, GOA, NOW R/AT:  
C/O. SHIVAPPA SANNAMEALLAPPA MUTTENNAVAR  
NIRMAL NAGAR, MODAGA,  
TQ & DIST: BELGAUM, PRESENTLY AT  
MASTAMARDI, TQ: BAILHONGAL, DIST: BELGAUM

8. KUMARI. YALLAWWA W/O. RAMAPPA BADIGER  
AGE: 24 YEARS, OCC: HOUSEHOLD WORK  
R/O. JAMANAL, TQ: GOKAK,  
DIST: BELGAUM
9. SMT.BALAWWA W/O. LAKAPPA KOPPAD  
AGE: 63 YEARS, OCC: HOUSEHOLD WORK  
R/O. RADDI PATRACHAE PARVATI ROAD,  
PUNE, MAHARASTRA

... RESPONDENTS

(BY SRI M G NAGANURI FOR R2-R4;  
R-1, 5 TO 7 SERVICE HELD SUFFICIENT;  
R-8 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE COMPROMISE DECREE DATED:17/01/2011 IN F.D.P.NO.5/2010 PASSED BY THE ADDITIONAL CIVIL JUDGE AND JMFC BAILHONGAL VIDE ANNEXURE-C AND RESTORE THE F.D.P.NO.5/2010 FOR FRESH HEARING AND ETC.

THIS WRIT PETITION COMING ON FOR HEARING INTERLOCUTORY APPLICATION, THIS DAY, THE COURT MADE THE FOLLOWING:

### ORDER

The prayer made by the petitioners is to set aside the compromise decree dated 17.01.2011 in FDP No.5/2010 passed by the Principal Civil Judge (Jr.Dn)

and JMFC, Bailhongal and to restore the FDP for fresh hearing.

2. Learned counsel submitted that he had made an application under Order 23 Rule 3 of C.P.C. with a prayer to set aside the order dated 17.01.2011, but the said application is not acknowledged and not considered. The inaction on the part of learned Judge is improper.

3. On the other hand, the learned counsel submitted that provision of law is not properly referred in application and further said application is not presented before the CMO.

4. Heard both sides.

5. In the facts and circumstances, when there is a compromise decree in FDP No.5/2010, the right way is to make a miscellaneous application before the CMO of the concerned Judge and if such applications are

made it is for CMO to register and place before the learned Judge for appropriate order. With the same, this petition stands disposed reserving liberty to the petitioners to present miscellaneous application before the CMO to place before learned Judge. Respective contentions of the parties are kept open.

**Sd/-  
JUDGE**

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