



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 28<sup>TH</sup> DAY OF FEBRUARY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR**

**WRIT PETITION NO. 11225 OF 2019 (GM-CPC)**

**BETWEEN:**

1. SRI. M. V. NARASIMHAMURTHY,  
S/O VEERANNA,  
AGED ABOUT 47 YEARS,  
R/A RAGHAVENDRA COLONY,  
MADHUGIRI TOWN,  
TUMKUR DISTRICT-572 132.
2. SRI. ARUNKUMAR,  
S/O V. N. RAO,  
AGED ABOUT 47 YEARS,  
R/A MALLESWARA SWAMI TEMPLE ROAD,  
MADHUGIRI TOWN,  
TUMKUR DISTRICT-572 132.

Digitally signed by  
VEERENDRA  
KUMAR KM  
Location: HIGH  
COURT OF  
KARNATAKA

...PETITIONERS

(BY SRI. G. S. VENKAT SUBBA RAO, ADVOCATE)

**AND:**

1. SMT. BABY SAROJA,  
W/O G. S. DEVENDRANATHA,  
AGED ABOUT 65 YEARS  
R/AT H.NO.6454, 10TH CROSS,  
1ST MAIN, S. S. PURAM,  
TUMKUR-572 130.



2. SMT. NAGARATNABAI,  
W/O V. NARAYANARAO,  
AGED ABOUT 69 YEARS,  
R/AT NO.37, VIDYA PEETA,  
2ND 'B' CROSS,  
THYAGARAJANAGAR,  
NEAR J.K. PLAZA,  
BANGALORE-560 028.
  3. SRI. SHIVAKUMAR,  
S/O SRI. PANDURANGAPPA,  
AGED ABOUT 47 YEARS,
  4. SRI. SHANTHAKUMAR,  
S/O SRI. PANDURANGAPPA,  
AGED ABOUT 45 YEARS.
- 3 & 4 RESIDING AT 8TH CROSS  
BEHIND WATER TANK,  
VIDYANAGARA,  
TUMKUR-572 130.
5. SRI. ESHWARARAO,  
S/O LATE V. NARAYANARAO,  
AGED ABOUT 69 YEARS,  
R/AT SHANKAR TALKIES ROAD,  
K. H.RAOD, MADHUGIRI,  
TUMKUR DISTRICT-572 132.
  6. SRI. SURESH BABU,  
S/O LATE G. MALLARI RAO,  
AGED ABOUT 61 YEARS,  
R/AT SHANKAR TALIKES ROAD,  
K. H.RAOD, MADHUGIRI,  
TUMKUR DISTRICT-572 132.



7. SRI. K.B. DEVENDRABABU,  
S/O BALARAMASETTY,  
MAJOR,  
R/A BEHIND MGM SCHOOL,  
VRS TEMPLE STREET,  
MADHUGIRI TOWN,  
TUMKUR DISTRICT-572 132.

8. SRI. MADHUSUDANA,  
S/O LATE GANGUJI RAO,  
MAJOR.

9. SRI. YESHAVANTHA RAO,  
S/O LATE GANGUJI RAO,  
MAJOR.

8 AND 9 ARE R/AT 1ST CROSS,  
RAGHAVENDRA COLONY,  
PROPRIETOR: VENATESWARA ENGINEERING WORKS,  
BESIDES SHANTHALA TALKIES, MADHUGIRI TOWN,  
TUMKUR DISTRICT-572 132.

...RESPONDENTS

(BY SRI. VIVEK B.R., ADVOCATE FOR R1 TO R4;  
R6 TO R9 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF  
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE  
IMPUGNED ORDER DTD 19.2.2019 PASSED ADDL. SENIOR  
CIVIL JUDGE AND JMFC, MADHUGIRI IN O.S.NO.16/2012 ON  
IA NO.9 FILED UNDER ORDER VI RULE 17 OF CPC VIDE  
ANNEXURE-A AND ETC.



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

**ORDER**

Heard Sri. G. S. Venkat Subba Rao, learned counsel for the petitioners and Sri. Vivek B. R., learned counsel for respondent Nos.1 to 4.

2. In O.S. No.16/2012 a suit for partition on the file of Prl./Addl. Senior Civil Judge and JMFC, Madhugiri, the plaintiffs filed an application under Order VI Rule 17 of CPC seeking amendment to the plaint. Initially when the suit was filed, the plaintiff pleaded that the house property which is the subject matter of the suit was the ancestral property of their father and by the proposed amendment; they want to plead that the house property was self acquisition of his father. This application was granted by the Court below and hence this writ petition by defendant Nos. 6 and 7.

3. Defendant Nos.6 and 7 claim to be the purchasers of a portion of Item-1 of the suit property from defendant Nos.1 and 5. It is stated that the defendant Nos.1 and 5 have



based their defense on a Will in their favour executed by the father of the plaintiffs and defendant No.1 and 5.

4. It is the argument of Sri. G. S. Venkat Subba Rao, learned counsel for the petitioner that the proposed amendment changes the nature of the property and the amendment was sought after recording of evidence, which was not permitted.

5. After hearing Sri. G. S. Venkat Subba Rao, learned counsel for the petitioners it may be stated that the nature of the property may vary because of amendment, but nature of suit does not alter. There is a lot of difference between the nature of the property and nature of the suit. The effect of amendment is that now the plaintiffs want to plead that the suit property is self acquisition of their father, therefore the property now acquires the character of self acquisition instead of ancestral. Defendant Nos.6 and 7 are the purchasers from defendant Nos.1 and 5 and they do not get more than the share of their vendor.

6. It is also forthcoming that the plaintiffs came to know that the property was self acquisition of the father after



filing of the suit and therefore, they could not take up this plea at the initial stage. In this view I am of the view that the amendment has not affected the interest of the petitioners in any way. Hence, there is no need to interfere with the order. The petition is ***dismissed***.

**Sd/-  
JUDGE**

VBS  
List No.: 1 Sl No.: 33