



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

**DATED THIS THE 31<sup>ST</sup> DAY OF JULY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE S.G.PANDIT**

**WRIT PETITION NO. 15099 OF 2023 (GM-CPC)**

**BETWEEN:**

1. SRI. JAVERILAL,  
AGED ABOUT 54 YEARS,  
S/O MANGILAL,  
PROPRIETOR M/S MAHALAKSHMI  
JEWELLERS AND CLOTH MERCHANT,  
MAIN ROAD, BELUR TOWN,  
HASSAN DISTRICT - 573 115.
2. SRI. VIJAYA KUMAR,  
AGED ABOUT 50 YEARS,  
S/O MANGILAL,  
PROPRIETOR M/S MAHALAKSHMI  
JEWELLERS AND CLOTH MERCHANT,  
MAIN ROAD, BELUR TOWN,  
HASSAN DISTRICT - 573 115.

...PETITIONERS

(BY SRI. VIJAYA KRISHNA BHAT, ADVOCATE)

**AND:**

1. SRI. JITENDRA P. KHATARIA,  
AGED ABOUT 44 YEARS,  
S/O PRAKASH KUMAR KHATARIA,  
M/S CHANDRABHAN JEWELLERS,  
MAIN ROAD, BELUR TOWN,  
HASSAN DISTRICT - 573 115.



2. SRI. HULIRAJ @ SHASHI KUMAR,  
AGED ABOUT 56 YEARS,  
S/O PUTTACHAR,  
PROPRIETOR M/S CHAMUNDI  
JEWELLER WORKS,  
MAIN ROAD, BELUR TOWN,  
HASSAN DISTRICT - 573 115.

...RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASH THE IMPUGNED ORDER DATED 02/12/2022 PASSED BY THE CIVIL JUDGE AND JMFC, BELUR IN OS NO.373/2022 (OLD.NO. OS. 36/2003) VIDE ANNEXURE-H QUASH THE IMPUGNED ORDER DATED 21/06/2023 PASSED BY THE CIVIL JUDGE AND JMFC, BELUR IN OS NO. 373/2022 (OLD.NO. OS. 36/2003) VIDE ANNEXURE-H AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

Heard Sri.Vijaya Krishna Bhat, learned counsel for the petitioners/defendants. Perused the writ petition papers.

2. Petitioners are before this Court under Article 227 of Constitution of India questioning the correctness and legality of order dated 02.12.2022 passed by the learned Civil Judge and JMFC, Belur in O.S.No.373/2022, by which the plaintiff is permitted to examine the witnesses as per the list enclosed and to produce certain documents subject to its admissibility and relevancy.



3. Sri.Vijaya Krishna Bhat, learned counsel for the petitioners contends that the plaintiff could not have produced additional documents other than permitted to while remanding the matter by this Court by judgment dated 15.03.2022 in RSA No.1668/2011. It is also submitted that the plaintiff instead of complying remand order is examining other witnesses and producing documents which were not filed along with an application under Order 41 Rule 27 of CPC before this Court in RSA. Thus, he prays for setting aside the impugned order dated 02.12.2022.

4. Having heard learned counsel for the petitioners and on going through the petition papers, I am of the view that no ground is made out to interfere, under Article 227 of Constitution of India. The matter is remanded under judgment dated 15.03.2022 in RSA No.1668/2011. While remanding the matter, this Court has made it clear that the Senior Civil Judge, Belur shall consider whether the plaintiff is entitled to place on record the additional documentary evidence and if yes, to proceed with the appeal in accordance with law and pass appropriate orders. The Appellate Court has directed the trial Court to record evidence. While directing the trial Court to



record evidence, the Appellate Court has also directed the trial Court to give opportunity to the plaintiff to adduce additional evidence and permit the defendants/respondents to cross-examine the plaintiff and his witnesses and also permit them to produce additional evidence if any on their behalf. When such being the direction by the Appellate Court, the trial Judge cannot be found fault with in passing order dated 02.12.2022, impugned herein. No ground is made out to interfere. Accordingly, writ petition stands ***dismissed***.

**Sd/-**  
**JUDGE**

MH/-  
List No.: 1 Sl No.: 23  
CT:PH