



**IN THE HIGH COURT OF KARNATAKA,  
DHARWAD BENCH  
DATED THIS THE 31<sup>ST</sup> DAY OF JULY, 2024  
BEFORE  
THE HON'BLE MR. JUSTICE H.P.SANDESH  
CIVIL MISC PETITION NO. 100023 OF 2022 (-)**

**BETWEEN:**

GOPAL S/O. VENKATRAMAN HEGDE,  
AGED 64 YEARS, OCC: AGRICULTURE,  
R/O. HASPUR, TQ: YELLAPUR,  
DIST: UTTARA KANNADA-581347.

...PETITIONER

(BY SRI. VISHWANATH HEGDE, ADVOCATE)

**AND:**

1. SUBRAY S/O. VENKATRAMAN HEGDE,  
AGED 81 YEARS, OCC: AGRICULTURE,  
R/O. HASPUR, PO. CHAVATTI,  
TQ: YELLAPUR, DIST: UTTARA KANNADA-581347.
2. HARIHAR S/O. VENKATRAMAN HEGDE,  
AGED 64 YEARS, OCC: AGRICULTURE,  
R/O. HASPUR, PO. CHAVATTI,  
TQ: YELLAPUR, DIST: UTTARA KANNADA-581347.
3. NARASIHMA S/O. VENKATRAMAN HEGDE,  
AGED 65 YEARS, OCC: AGRICULTURE,  
R/O. HASPUR, PO. CHAVATTI,  
TQ: YELLAPUR, DIST: UTTARA KANNADA-581347.
4. F.M. SHRIDHAR S/O. NARAYAN BHAT,  
AGED 57 YEARS, OCC: AGRICULTURE,  
R/O. DANDIGESAR, PO. HASANAGI,  
TQ: YELLAPUR, DIST: UTTARA KANNADA-581347.
5. CHANDRAVATI W/O. VISHWESHWAR HEGDE,  
AGED 72 YEARS, OCC: HOUSEWIFE,  
R/O. SHIMBGALAR, PO. NANDOLLI,  
TQ: YELLAPUR, DIST: UTTARA KANNADA-581359.
6. SHUBHA W/O. TAMMAN RAO,  
AGED 25 YEARS, OCC: HOUSEWIFE,

GIRIJA A  
BYAHATTI

Location: HIGH  
COURT OF  
KARNATAKA  
DHARWAD  
BENCH



R/O. HEGGOD, TQ: SAGAR,  
DIST: SHIVAMOGGA-577429.

...RESPONDENTS

(BY SRI. A.P. HEGDE JANMANE, ADV. FOR R1 & R2;  
R3-R6 ARE SERVED)

THIS CIVIL MISCELLANEOUS PETITION IS FILED UNDER SECTION 11(5) AND (6) OF ARBITRATION AND CONCILIATION ACT, 1996 TO APPOINT ARBITRATORS TO ADJUDICATE THE APPORTIONMENT OF MOVABLES AND AMOUNT DEPOSITED IN ACCOUNT NO.89 OF HULUGOL SEVA SAHAKARI SANGH.

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

CORAM: THE HON'BLE MR. JUSTICE H.P.SANDESH

**ORAL ORDER**

(PER: THE HON'BLE MR. JUSTICE H.P.SANDESH)

This petition is filed praying this Court to appoint an arbitrator to adjudicate the apportionment of movables and amount deposited in account No.89 of Hulugol Seva Sahakari Sangha and grant such other relief.

2. It is stated in the petition that the petitioner has filed a petition under Section 54 of Code of Civil Procedure, 1908 in FDP No.2/2012 before the Senior Civil Judge, Sirsi seeking enforcement of preliminary decree passed in O.S. No.48/2007. The matter is compromised between the parties in the said proceedings. Since the



compromise decree contains arbitration clause, petitioner sent a notice to the opponent suggesting the names of three persons to appoint as arbitrators for apportionment of movables and amount deposited in account No.89 of Hulugol Seva Sahakari Sangha. One Sri Narasimha S/o. Ganesh Hegde, is one of the arbitrators named in the petitioner's notice who sent a reply stating that he is ready to act as an arbitrator if the other parties agrees and consents for the same. The other person Sri Gajanan S/o. Narayan Hagde is also one of the arbitrators named in the petitioner's notice who sent a reply stating that he represented one of the parties as an Advocate and hence, he is not ready to act as arbitrator. Hence, respondent No.1 issued reply stating that the person named in the notice as arbitrator at Sl.No.A) is his Advocate and he cannot act as arbitrator and suggest another name as arbitrator. Respondent No.2 issued reply stating that the person named in the notice as arbitrator at Sl.No.A) is an Advocate represented the respondent No.1 and he cannot act as arbitrator and suggest another name. Hence, the



present petition is filed before this Court for the appointment of arbitrator.

3. The counsel appearing for the respondent Nos.1 and 2 orally opposes the prayer sought in the petition.

4. It is not in dispute that the decree passed in FDP is a compromise decree in which amount in account No.89 has to be apportioned and also the movables have to be shared as per the decision of the panchas. The clause No.16 is very clear with regard to the said fact. When such being the material on record and even the petitioner also issued notice on 21.09.2021 suggesting the names of three persons and when one of the arbitrator is not ready to act as arbitrator and other two persons namely Sri Ramachandra S/o. Shivaraj Hegde and Sri Narasimha S/o. Ganesh Hegde are to be appointed as arbitrators in order to carry out the decree of compromise between the parties.



5. However, the counsel for respondents submits that unless the arbitrators are appointed, it cannot be completed the division of movable properties as well as the amount in the account No.89. Hence, there is a force in the contention of the petitioner's counsel that both persons named in the notice are to be appointed as arbitrators to carry out the decree.

6. In view of the discussions made above, I pass the following:

ORDER

- (i) Writ Petition is allowed.
- (ii) Sri Ramachandra S/o. Shivaraj Hegde and Sri Narasimha S/o. Ganesh Hegde are appointed as arbitrators to carry out the decree of compromise between the parties.

**Sd/-**  
**(H.P.SANDESH)**  
**JUDGE**

NAA  
CT-MCK  
List No.: 1 Sl No.: 45