



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

**DATED THIS THE 09<sup>TH</sup> DAY OF FEBRUARY, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR**

**WRIT PETITION NO.16103 OF 2023 (GM-CPC)**

**BETWEEN:**

1. AFZAL UNNISA  
W/O SAFEER,  
AGED ABOUT 51 YEARS,  
AGRICULTURIST,  
R/O DOOR NO.56-1,  
PARK MOHALLA,  
MADUGIR ROAD,  
SIRA TOWN-572137.

...PETITIONER

(BY SRI. R. SHASHIDHARA, ADVOCATE)

**AND:**

1. B.N. RAMAKRISHNA  
S/O LATE NANJUNDAIAH,  
AGED ABOUT 69 YEARS,  
RETIRED EMPLOYEE,  
R/O BEGUR VILLAGE,  
BEGUR HOBLI,  
BANGALORE SOUTH TALUK,  
BENGALURU - 560068.
2. SAFEER  
S/O KHASIM BAIG @ SABJAN SAB,  
AGED ABOUT 63 YEARS,  
AGRICULTURIST,  
PARK MOHALLA,  
MADUGIRI ROAD,  
SIRA TOWN-572137.





3. SPECIAL LAND ACQUISITION OFFICER  
NATIONAL HIGHWAY,  
AUTHORITY OF INDIA,  
NEAR KSRTC DEPOT,  
CHITRADURGA-577501.

...RESPONDENTS

(BY SRI. JAGANNATHA H.T., ADVOCATE FOR R1;  
SRI. PRAKASHA V. ANGADI, ADVOCATE FOR R3;  
R2 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER PASSED BY THE SENIOR CIVIL JUDGE AND JMFC AND JMFC AT HIRIYUR IN O.S.No.62/2018 DATED 23/01/2023 VIDE ANNEXURE-E TO THIS WRIT PETITION.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

**ORAL ORDER**

In this petition, petitioner seeks the following reliefs:

*"a). Issue writ of certiorari or any other writ or order or direction, in the nature of writ, quashing the order passed by the Senior Civil Judge and JMFC at Hiriyyur in O.S.No.62/2018 dated 23.01.2023 vide Annexure-E to this Writ Petition.*

*b). Issue any order or direction in the nature of writ as this Hon'ble Court may deem fit under the facts and circumstances of the case including as to the cost by*



*allowing this writ petition in the interest of justice and equity."*

2. This petition is filed by the plaintiff in O.S.No.62/2018, on the file of the Senior Civil Judge and JMFC, Hiriyr is directed against the impugned order dated 23.01.2023 whereby the Trial Court answered preliminary issue No.5 regarding valuation and Court fee in the negative thereby directing the petitioner/plaintiff to furnish fresh valuation slip and pay valorem Court fee on the market value of the suit schedule property.

3. Heard learned counsel for the petitioner/plaintiff and learned counsel for the respondents Nos.1 and 3/defendants and perused the material on record.

4. A perusal of the material on record will indicate that the petitioner plaintiff instituted aforesaid suit against the respondents/defendants for declaration, cancellation, permanent injunction and other reliefs in relation to the suit schedule immovable property. The said suit is being contested by the defendants on merits as well as putting forth the contention that the suit had not been properly valued and that the Court fee paid was insufficient.



5. Based on the pleadings of the parties, the Trial Court totally framed eight issues, amongst which Issue No. 5 pertains to valuation and Court fee which was treated as a preliminary issue.

6. By the impugned order, the Trial Court answered the preliminary issue regarding valuation and Court fee against the petitioner/plaintiff who is before this Court by way of the present petition.

7. The question/issue as to whether issue pertaining to valuation in Court fee should be tried as a preliminary issue by a Court of unlimited pecuniary jurisdiction is no longer *res integra* in the light of the judgment of the Hon'ble Full Bench in the case of ***Venkatesh R Desai Vs Pushpa Hosmani*** reported in **ILR 2018 KAR 5095**, wherein it is held that the issue/question relating to valuation in Court fee by a Court of unlimited pecuniary jurisdiction cannot be treated as a preliminary issue and shall be decided and adjudicated upon along with other issues involved in the suit.

8. Under these circumstances, I deem it just and appropriate to set aside the impugned order and direct the Trial Court to adjudicate all issues including the Issue No. 5 relating to



valuation and Court fee to be decided along with other issues at the time of final disposal of the suit.

9. Accordingly, the following:

**ORDER**

- (i) Writ petition is *allowed*.
- (ii) The impugned order dated 23.01.2023 in O.S.No.62/2018, on the file of Senior Civil Judge and JMFC., Hiriya, on preliminary issue is hereby set aside.
- (iii) The Trial court is directed to adjudicate upon all issues including the issue relating to valuation and Court fee and dispose of the suit on merits and in accordance with law within a period one year from the date of receipt of copy of this order.

**SD/-  
(S.R.KRISHNA KUMAR)  
JUDGE**

MR