



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 23<sup>RD</sup> DAY OF NOVEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE M.I.ARUN

WRIT PETITION NO. 105052 OF 2023 (GM-R/C)

**BETWEEN:**

BASAPPA S/O. VENKAPPA DALAWAI,  
AGE: 74 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI, TQ: GOKAK,  
DIST: BELAGAVI-591306.

...PETITIONER

(BY SRI K. ANANDKUMAR, ADVOCATE)

**AND:**

1. MODEL EDUCATION SOCIETY,  
KOUJALAGI A REGISTERED TRUST,  
REPRESENTED BY ITS CHAIRMAN,  
SRI RAVINDRA S/O. ASHOK PARUSHETT,  
AGE: 73 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI , TQ: GOKAK,  
DIST: BELAGAVI-591306.
2. SRI ASHOK S/O. ADIVEPPA PARUSHETTI,  
AGE: 73 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI , TQ: GOKAK,  
DIST: BELAGAVI-591306.
3. MAHANTESH S/O. NEELKANTAPPA SHIVANMARI,  
AGE: 68 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI , TQ: GOKAK,  
DIST: BELAGAVI-591306.
4. ANANT S/O. KRISHNAJI NAIK,  
AGE: 74 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI , TQ: GOKAK,  
DIST: BELAGAVI-591306.





5. SRI CHENNAPPA S/O. SIDDAPPA KOTINTA,  
AGE: 87 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI , TQ: GOKAK,  
DIST: BELAGAVI-591306.
6. RAJDEEP S/O. VEERANNA KOUJALAGI,  
AGE: 47 YEARS, OCC: BUSINESS,  
R/O. HINDAWADI, BEHIND MAHAVEER BHAVAN,  
BELAGAVI-590013.
7. BASAVARAJ S/O. ALLAPPA LOKANNAVAR,  
AGE: 61 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI , TQ: GOKAK,  
DIST: BELAGAVI-591306.
8. SRI SHIVAPPA S/O. BASAPPA LOKANNAVAR,  
AGE: 61 YEARS, OCC: AGRICULTURE,  
R/O. KOUJALAGI , TQ: GOKAK,  
DIST: BELAGAVI-591306.

...RESPONDENTS

(BY SRI VINAY S. KOUJALAGI, ADV. FOR R1;  
R2 - ABATED; NOTICE TO R3 TO R8 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI THEREBY QUASHING THE IMPUGNED ORDER DATED 17-12-2022 PASSED BY XI ADDITIONAL DISTRICT JUDGE BELAGAVI IN MISC NO. 193/2022, AS AT ANNEXURE-A TO THE WRIT PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

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



**ORDER**

Aggrieved by the order dated 17.12.2022, passed by the XI Addl. District Judge, Belagavi, in Misc.No.193/2022, the present petition is filed.

2. Misc.No.193/2022 is filed under Sections 5 and 7 of the Charitable and Religious Trusts Act, 1920 ('the Act', for short). The said petition was filed to seek approval of the trial Court in respect of elected members of the Managing Committee of the Trust.

3. In the said petition, respondent No.1, i.e., the Trust alone was the petitioner and there were no respondents. The trial Court after hearing respondent No.1 herein, was pleased to approve the members of the Managing Committee of the Trust.

4. On the ground that the impugned order was obtained behind the back of the petitioner, who is a member of the Trust, and also on the ground that the



impugned order is violative of Section 9 of the Act, the present petition is filed.

5. Section 9 of the Act reads as follows:

*9. Savings - No petition under the foregoing provisions of this Act in relation to any trust shall be entertained in any of the following circumstances, namely:-*

- (a) if a suit instituted in accordance with the provisions of section 92 of the Code of Civil Procedure 1908 (5 of 1908), is pending in respect of the trust in question;*
- (b) if the trust property is vested in the Treasurer of Charitable Endowments, the Administrator General, the Official Trustee, or any Society registered under the Societies Registration Act, 1860 (21 of 1860); or*
- (c) if a scheme for the administration of the trust property has been settled or approved by any Court of competent jurisdiction, or by any other authority acting under the provisions of any enactment.*

6. Admittedly, the petitioner herein has preferred the petition before the jurisdictional District Court under Section 92 of the Code of Civil Procedure, by way of Misc. Application No.204/2014 and the same has been subsequently converted into O.S.No.15/2018 and it is not in dispute that the said original suit is pending. The issue



in the said suit touches upon the constitution of the Managing Committee of the Trust.

7. Under the circumstances, the petition under the provisions of the Charitable and Religious Trusts Act, 1920 cannot be entertained as per Section 9 of the said Act.

8. Perusal of the impugned order shows that the respondent No.1 herein (petitioner therein), probably obtained the order without bringing to the notice of the trial Court about the pendency of O.S.No.15/2018. Even otherwise, during the pendency of the original suit, the trial Court should not have entertained the Miscellaneous Petition filed by respondent No.1 herein.

9. For the aforementioned reasons, writ petition is hereby allowed. Impugned order dated 17.12.2022 passed by the XI Addl. District Judge, Belagavi, in Misc.No.193/2022, is hereby set aside.

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