



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 27<sup>TH</sup> DAY OF MAY, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM**

**WRIT PETITION NO. 100847 OF 2024 (GM-CPC)**

**BETWEEN:**

1. SMT. RASHEEDABANU W/O. MOHAMMED GOUSH KWATI,  
AGE: 33 YEARS, OCC: HOUSEHOLD WORK,  
R/O.NAGENDRA MATTI, 4<sup>TH</sup> CROSS, HAVERI,  
TQ: & DIST: HAVERI-581115.
2. SMT. VAHEEDA W/O. NANNESAB CHIKKABASUR,  
AGE: 26 YEARS, OCC: HOUSEHOLD WORK,  
R/O. SHIRAGOD, TQ: HANAGAL,  
DIST: HAVERI-581104.

...PETITIONERS

(BY SRI. NAGARAJ J. APPANNAVAR, ADVOCATE)

**AND:**

1. ASHPAKAAHAMAD S/O. ABDULASAB MULLA,  
AGE: 46 YEARS, OCC: AGRICULTURE AND BUSINESS,  
R/O. KAGINELE, TQ: BYADGI,  
DIST: HAVERI, PIN-581106.
2. SMT. FAMIDA USMANALI @ USMANAKHANA RATTIHALLI,  
AGE: 63 YEARS, OCC: AGRICULTURE,  
R/O.KAGINELE, TQ: BYADGI,  
DIST: HAVERI, PIN-581106.
3. ISHARADAMAHAH USAMANAALI @  
USAMANAKHAN RATTIHALLI,  
AGE: 42 YEARS, OCC: AGRICULTURE,  
R/O.KAGINELE, TQ: BYADGI,  
DIST: HAVERI, PIN-581106.
4. SHAKEERALI USAMNAALI @  
USAMANAKHAN RATTIHALLI,  
AGE: 40 YEARS, OCC: AGRICULTURE,  
R/O.KAGINELE, TQ: BYADGI,  
DIST: HAVERI, PIN-581106.

...RESPONDENTS

(BY SRI. HANUMANTHAREDDY SAHUKAR, ADV. FOR R1;  
R2 TO R4 ARE SERVED)

YASHAVANT  
NARAYANKAR





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 29/01/2024 PASSED BY THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC, BYADGI IN O.S. NO.21/2018 VIDE ANNEXURE-E.

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

**ORDER**

The petitioners are aggrieved by the order passed by the learned Judge on I.A.No.14 filed by the petitioners under Order 1 Rule 10(2) r/w Section 151 of CPC.

2. Respondent No.1/plaintiff has instituted a suit for specific performance of contract based on an agreement to sell dated 12.02.2018 executed by defendant Nos.1 to 3. The present petitioners are daughters of defendant No.1 and sisters of defendant Nos.2 and 3. Their contention is that suit property is the joint family ancestral property and therefore, when the matter was set down for defendants arguments, the present petitioners have come up with the impleading



application. The learned Judge has rejected the application.

3. It is a trite law that in a suit for specific performance, necessary parties are only the parties to the contract. Defendant Nos.1 to 3 have executed an agreement to sell in favour of the plaintiff and the plaintiff to enforce the agreement has filed a suit for specific performance. The trial is concluded and when the matter was set down for defendants arguments, this impleading application is filed. Even if the property which is the subject matter of the agreement to sell is the ancestral property, non-alienating members of a joint family have no locus to contest the suit for specific performance. They are not necessary parties and their presence is not at all required for effective and complete adjudication of the suit agreement, which is subject matter of the suit for specific performance. The learned Judge has rightly rejected the application. Therefore, no indulgence is warranted.



4. It appears that this application is set up by defendant Nos.1 to 3 only to protract the hearing of the suit and defendant Nos.1 to 3 have succeeded, as this court granted an interim order, which is in force since 14.02.2024.

5. For the forgoing reasons, the writ petition stands dismissed.

6. However, the learned Judge is directed to expedite and decide the suit, in accordance with law within an outer limit of two months from the date of receipt of a copy of this order.

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

MBS  
Ct-mck  
List No.: 1 SI No.: 81