

(2026) 08 KAR CK 2261

In the Karnataka High Court, Bengaluru Bench

Case No : WRIT PETITION NO.20271/2022 (GM-CPC)

Smt. Puttarasamma @ Thayamma

APPELLANT

Vs

Smt. Muddahanumakka & Ors.

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Code of Civil Procedure, 1908 — Order XXII Rule 3

Citation : (2026) 08 KAR CK 2261

Hon'ble Judges : Vijaykumar A. Patil, J

Bench : Single Bench

Advocate : Sri. Harish N.R. Adv., for Sri. Patel D. Karegowda, Adv.

Final Decision : Allowed

Judgement

This writ petition is filed challenging the order dated 25.03.2021 passed in OS.No.223/2010 by the Principal Senior Civil Judge and CJM, Ramanagaram (for short 'the trial Court').

2. Heard Sri.Harish N.R., learned counsel appearing for Sri. Patel D. Karegowda, learned counsel for the petitioner, Sri.B.V.Krishnappa, learned counsel for respondent No.16 and meticulously perused the material available on record.

3. One Smt.Puttanarasamma, now deceased, filed OS.No.223/2010 against the respondents herein seeking relief of partition and separate possession of the suit schedule property claiming one-fourth share therein. Defendant No.16 filed a written statement contending that he is the son of late Sri.Chinnagiriappa born to the second wife, whereas the plaintiff is the first wife of late Sri.Chinnagiriappa. During the pendency of the said suit, the plaintiff passed away on 22.08.2019. Thereafter, the petitioner herein filed an application under Order XXII Rule 3 of the Code of Civil Procedure, 1908 (for short 'CPC'), seeking to be impleaded as the legal representative of the deceased plaintiff. The said application was opposed by defendant No.16. The trial Court, under the impugned order dismissed the said application mainly on the ground that the

petitioner/applicant claims to be the adopted son of the deceased plaintiff and that, being a widow, the deceased plaintiff had no power to adopt a child during her lifetime.

4. The primary contention of the learned counsel for the petitioner is that the trial Court ought not to have recorded the finding with regard to the correctness of the adoption and the said issue is required to be gone into by the trial Court while deciding the suit on merits. In my considered view, the said contention requires consideration.

5. It is to be noticed that the deceased Smt.Puttanarasamma filed a suit in the year 2010 and she passed away on 22.08.2019. The petitioner has placed on record a registered deed of adoption dated 24.11.2014 in support of his claim that he is the adopted son of the deceased plaintiff. Based on such adoption deed, the petitioner seeks to come on record as the legal representative of the deceased plaintiff.

6. In my considered view, the petitioner is required to be brought on record as the legal representative of the deceased plaintiff as the suit is for partition and separate possession, keeping open the correctness of the adoption. The trial Court has committed a grave error in recording the findings on the deed of adoption. In the absence of any challenge to the same, the said issue is required to be gone into by the trial Court in a pending suit. Accordingly, I proceed to pass the following:

ORDER

i. The writ petition is ***allowed***.

ii. The impugned order dated 25.03.2021 passed in OS.No.223/2010 by the Principal Senior Civil Judge and CJM, Ramanagaram is hereby set aside. Consequently, the petitioner's application filed under Order XXII Rule 3 of the CPC is allowed.

iii. The petitioner is permitted to come on record as a legal representative of the deceased plaintiff.

iv. The petitioner shall file amended plaint before the trial Court within three weeks from the date of receipt of the copy of this order.