

## IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

### DATED THIS THE 20<sup>TH</sup> DAY OF AUGUST, 2025

### **BEFORE**

# THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ WRIT PETITION NO. 105948 OF 2025 (GM-CPC)

### **BETWEEN:**

ANIL KUMAR S/O SHANKARAPPA MAKANNAVAR, AGE: 43 YEARS, OCC. PRIVATE SERVICE, R/O. FLAT NO.D-10, THIRD FLOOR, "SHRUSHTI APARTMENT", GANAKKAL VILLAGE, KENGERI HOBLI, BENGALURU SOUTH, TQ.DIST. BENGALURU-560060.

...PETITIONER

(BY SRI. RAKESH M. BILKI, ADVOCATE)

#### <u>AND:</u>

- SHANKARAPPA S/O. HANUMANTAPPA MAKANNAVAR, AGE: 87 YEARS, OCC. RETIED TEACHER, R/O. GUDAGERI VILLAGE, TQ. KUNDAGOL, DIST. DHARWAD-581107.
- 2. PULAKESHI S/O. SHANKARAPPA MUKANNAVAR, AGE: 40 YEARS, OCC. AGRICULTURE, R/O. GUDAGERI VILLAGE, TQ. KUNDAGOL, DIST. DHARWAD-581107.

...RESPONDENTS

(NOTICE TO RESPONDENTS IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 227 OF CONSTITUTION OF INDIA, PRAYING TO, I) ISSUE A WRIT OF MANDAMUS DIRECTING THE COURT OF SENIOR CIVIL JUDGE AND JMFC, KUNDGOL TO PASS AN ORDER ON IA NO. 12





DATED. 07/02/2024 FILED BY THE DEFENDANT NO.1 VIDE ANNEXURE-E SUIT O.S. NO. 44/2023 AND ETC.,

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

### **ORAL ORDER**

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

- Notice to the respondents is dispensed with in view of the proposed order to be passed.
- 2. The petitioner is before this Court seeking for the following reliefs:
  - i) Issue a writ of Mandamus directing the Court of Senior Civil Judge and JMFC, Kundgol to pass an order on IA No. 12 dated. 07/02/2024 filed by the defendant no.1 vide Annexure-E in suit O.S. No. 44/2023; and
  - ii) Issue any other writ or direction as deemed fit by this Hon'ble Court in the facts and circumstances of the case and to meet the ends of justice and equity.
- 3. The suit in OS No.44/2023 was filed for partition and separate possession, where the petitioner as defendant No.1 had filed an application in IA No.12



seeking for deposit of the rents received from the tenants on the subject matter of the counter claim.

- 4. The grievance of the petitioner is that the Trial Court has not considered the said application, which had been filed on 07.02.2024 till date, and as such the aforesaid reliefs have been sought.
- 5. Whenever any application is filed before the Trial Court, the same would have to be considered by following due procedure calling for objections, hearing the parties and passing necessary orders.

  Merely because the application is pending from 07.02.2024 would not mean that there is any undue delay on the part of the Trial Court for issuance of a mandamus.
- 6. In my considered opinion, the Trial Court would consider the application filed as per the schedule of the Trial Court and pass necessary orders at the



earliest. There cannot be any mandamus issued in that regard.

7. Accordingly, petition stands **disposed**.

SD/-(SURAJ GOVINDARAJ) JUDGE

SH CT:PA

List No.: 1 SI No.: 5