

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 20TH DAY OF AUGUST, 2025

BEFORE THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.106876 OF 2023 (GM-CPC) <u>C/W</u> WRIT PETITION NO.101559 OF 2024

IN WP.NO.106876/2023: BETWEEN:

SRI. CHANDRASHEKHAR S/O. LATE KENCHAPPA, AGED ABOUT 49 YEARS, OCC. AGRICULTURIST, R/O. HACHCHOLLI, SIRUGUPPA TQ., BALLARI DISTRICT-584128.

...PETITIONER

(BY SRIYUTHS. S.G. KADADAKATTI AND D.N. JAYANTH, ADVOCATES)

AND:



- SRI. KARIYAPPA S/O. LATE KENCHAPPA, AGED ABOUT 64 YEARS, OCC. AGRICULTURIST, R/O. HACHCHOLLI VILLAGE, SIRUGUPPA TALUK, BALLARI-583101.
- SRI. YOHANA S/O. LATE KENCHAPPA, AGED ABOUT 45 YEARS, OCC. AGRICULTURIST, R/O. HACHCHOLLI VILLAGE, SIRUGUPPA TALUK, BALLARI DISTRICT-584128.

...RESPONDENTS

(NOTICE T RESPONDENTS IS DISPENSED WITH)



THIS WP IS FILED UNDER ARTICLE 227 OF CONSTITUTION OF INDIA, PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE ORDER DATED. 23-09-2023 PASSED BY THE LEARNED CIVIL JUDGE, AND JMFC, SIRUGUPPA, ON I.A. NO. VII AND VIII IN O.S. NO.142/2019 VIDE ANNEXURE-M AND N AND BY ALLOWING THE WRIT PETITION IN THE ENDS OF JUSTICE AND EQUITY AND ETC.,

IN WP.NO.101559/2024: BETWEEN:

SRI. CHANDRASHEKHAR S/O. LATE KENCHAPPA, AGED ABOUT 44 YEARS, OCC. AGRICULTURIST, R/O. HACHCHOLLI, SIRUGUPPA TQ., BALLARI DISTRICT-584128.

...PETITIONER

(BY SRIYUTHS. S.G. KADADAKATTI AND D.N. JAYANTH, ADVOCATES)

AND:

- SRI. KARIYAPPA S/O. LATE KENCHAPPA, AGED ABOUT 64 YEARS, OCC. AGRICULTURIST, R/O. HACHCHOLLI VILLAGE, SIRUGUPPA TALUK, BALLARI-583101.
- SRI. YOHANA S/O. LATE KENCHAPPA, AGED ABOUT 45 YEARS, OCC. AGRICULTURIST, R/O. HACHCHOLLI VILLAGE, SIRUGUPPA TALUK, BALLARI DISTRICT-584128.

...RESPONDENTS

(NOTICE T RESPONDENTS IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE ORDER DATED 04.12.2021 PASSED IN M.A.NO.4/2020 BY THE LEARNED II ADDL. SENIOR CIVIL JUDGE AT BALLARI SITTING AT SIRUGUPPA VIDE ANNEXURE-H AND ORDER DATED 05.02.2020 PASSED BY THE LEARNED CIVIL JUDGE, AND JMFC, SIRUGUPPA, ON I.A.NO.II OS.NO.142/2019 VIDE ANNEXURE-F AND BY ALLOWING THE WRIT PETITION IN THE ENDS OF JUSTICE AND EQUITY AND ETC.,



THESE PETITIONS ARE 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 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:

IN WP.NO.106876/2023:

- a) Issue writ in the nature of certiorari by quashing the order dated. 23-09-2023 passed by the learned Civil Judge, and JMFC, Siruguppa, on i.A. No. VII and VIII in O.S. No. 142/2019 vide ANNEXURE-M & N and by allowing the writ petition in the ends of justice and equity.
- b) Issue any other appropriate writ order or direction as this Hon'ble Court deems fit in the facts and circumstances of the case.

IN WP.NO.101559/2024:

a) Issue writ in the nature of certiorari by quashing the order dated 04.12.2021 passed in M.A.No.4/2020 by the learned II Addl. Senior Civil Judge at Ballari Sitting at Siruguppa Vide ANNEXURE-H and order dated 05.02.2020 passed by the learned Civil Judge, and JMFC, Siruguppa, on I.A.No.II OS.No.142/2019 vide ANNEXURE-F and by allowing the writ petition in the ends of justice and equity.



- b) Issue any other appropriate writ order or direction as this Hon'ble Court deems fit in the facts and circumstances of the case.
- 3. The suit in O.S.No.142/2019 was filed seeking a declaration that the plaintiff is the owner and in possession of the suit property, and to restrain the defendants from interfering with his peaceful possession and enjoyment of the same. In the said suit, an order of injunction was passed on 05.02.2020; a challenge having been made in M.A.No.4/2020, it was confirmed on 04.12.2021. Challenging those two orders, W.P.No.101559/2024 has been filed.
- 4. In the said suit, I.A.No.VII had been filed under Section 151 of the Code of Civil Procedure (for short 'CPC') for police protection to implement the interim order of injunction, which came to be allowed; the said order has been challenged in W.P.No.106876/2023.



- 5. The submission of the counsel for the petitioner, who is defendant before the trial Court, is that under the guise of the order under I.A.No.VII, the possession of the petitioner is sought to be interfered with. The plaintiff is not in possession of the property and as such, both W.P.No.101559/2024 and W.P.No.106876/2023 are required to be allowed.
- 6. A perusal of the records indicates that a suit has been filed in the year 2019. Initial order of injunction had been passed on 05.02.2020, which having been challenged in M.A.No.4/2020, came to be dismissed on 04.12.2021; and in the year 2023, an application in I.A.No.VII had been filed, which came to be allowed on 23.09.2023. Thus, the order of injunction has been in force from 05.02.2020. It is sought to be implemented on 23.09.2023.
- 7. On enquiry as regards the status of the suit, learned counsel for the petitioner submits the plaintiff has led



his evidence, as also been cross-examined by the petitioner, and now the matter is posted for the defendants' evidence.

- 8. If that be so, I am of the considered opinion that at this stage, it would not be proper for this Court to interfere in the matter when the injunction order has been in force from February-2020. The trial more or less having been completed, which would be so completed after defendant has led evidence, matter would have to be heard and necessary orders passed on merits.
- 9. In that view of the matter, placing on record the submission of Shri S.G.Kadadakatti., learned counsel for the petitioner, the defendants in O.S.No.142/2019 would lead evidence at the earliest without seeking for any adjournment and that defendant would co-operate in the earliest disposal of the suit, the trial Court is directed to dispose of



the suit in O.S.No.142/2019 as expeditiously as possible considering that the suit is of the year 2019.

10. With the above observations, the petitions stand disposed of.

Sd/-(SURAJ GOVINDARAJ) JUDGE

AM

List No.: 1 SI No.: 13