

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. 105992 OF 2025 (GM-CPC)

BETWEEN:

K. HARSHAVARADHANA S/O. K. CHANNABASAPPA, AGE: 49 YEARS, OCC. AGRICULTURE, R/O. ADVIMALLANAKERE VILLAGE, TQ. HUVINAHADAGALI, DIST. BALLARI-583 219.

...PETITIONER

(BY SRI. PATIL MAHANTESH RACHANAGOUDA, ADVOCATE)

AND:

K. HALAPPA S/O. SIDDAPPA SINCE DECEASED BY HIS LR'S.,

NAGAMMA W/O. K. HALAPPA SINCE DECEASED BY HER LR'S.,

1) MALLAMMA W/O. HEMAPPA,

AGE: 69 YEARS, OCC: HOUSEHOLD WORK,

R/O: NANDIBEVOOR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 131.

2) ANUSUYA W/O. LATE ASHOK,

AGE: 55 YEARS, OCC: HOUSEHOLD WORK,

R/O: NANDIBEVOOR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 131.





3) CHELUVARAJ S/O.. LATE ASHOK G/S K. HALAPPA,

AGE: 34 YEARS, OCC: AGRICULTURE,

R/O: NANDIBEVOOR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 131.

4) SHUBHA W/O. SIDDESH

DAUGHTER IN-LAW OF LATE HALAPPA,

AGE: 51 YEARS, OCC: HOUSEHOLD WORK,

R/O: NANDIBEVOOR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 131.

5) CHOODAMANI W/O. VIRUPAKSHAGOUDA,

D/O LATE HALAPPA,

AGE: 58 YEARS, OCC: HOUSEHOLD WORK,

R/O: KONGANA HOSUR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 121.

6) CHANDRAMOULI S/O. LATE HALAPPA,

AGE: 56 YEARS, OCC: AGRICULTURE,

R/O: NANDIBEVOOR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 131.

7) BASAVARAJA S/O. LATE HALAPPA,

AGE: 55 YEARS, OCC: AGRICULTURE,

R/O: NANDIBEVOOR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 131.

8) LEELAVATHI W/O. LATE KALLANAGOUDA,

D/O LATE HALAPPA

AGE: 53 YEARS, OCC: HOUSEHOLD WORK,

R/O: NANDIBEVOOR VILLAGE, TQ:HARAPANAHALLI,

DIST: DAVANAGERE-583 131.

9) BHASKAR S/O. LATE HALAPPA

AGE: 51 YEARS, OCC: AGRICULTURE,

R/O: NANDIBEVOOR VILLAGE, TQ: HARAPANAHALLI,

DIST: DAVANAGERE-583 131.

10) KAMAKSHI W/O. TEJASH PATIL,

D/O LATE HALAPPA,





AGE: 49 YEARS, OCC: HOUSEHOLD WORK, R/O: KARIGANUR VILLAGE, TQ: CHANNAGIRI,

DIST: DAVANAGER-577 219.

K. CHANNABASAPPA S/O. LATE SIDDAPPA, SINCE DECEASED BY HIS LR'S.,

11) K. SIDDAPPA S/O. K. CHANNABASAPPA, AGE: 66 YEARS, OCC: AGRICULTURE, R/O: AMOGHA NILAYA, ADARAHANAGAR, TUMKUR TQ & DIST: TUMKUR-572 103.

12) K. RAVINDRANATH S/O. K. CHANNABASAPPA AGE: 64 YEARS, OCC: AGRICULTURE, R/O: ADVIMALLANAKERE VILLAGE, TQ: HUVINAHADAGALI, DIST: BALLARI-583 219.

13) I. T. RENUKA W/O. I. T. KEVESHA AGE: 69 YEARS, OCC: HOUSEHOLD WORK, R/O: KOTTURESHWAR NILAY, HAGARIBOMMANHALLI, TQ & DIST: BALLARI-583 121.

14) Y. NINGAMMA W/O. Y. MALLIKARJUNA AGE: 68 YEARS, OCC: HOUSEHOLD WORK, R/O: JALANDHI, RAMANAGAR, HAGARIBOMMANHALLI, TQ & DIST: BALLARI-583 121.

15) P. SHIVALEELA W/O. P. SIDDESH, AGE: 56 YEARS, OCC: HOUSEHOLD WORK, R/O: GANGANAGAR, 1ST IV CROSS, BANGALORE, TQ: & DIST: BANGALORE-560 032.

16) BHARATI W/O. RAVINDRA GOUDA AGE: 52 YEARS, OCC: HOUSEHOLD WORK, R/O: KURUGODU VILLAGE, TQ & DIST: BALLARI-583 116.

...RESPONDENTS

(NOTICE TO RESPONDENTS IS DISPENSED WITH)



THIS WP IS FILED UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO, I) ISSUE A WRIT IN NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT AND QUASH THE ORDER PASSED ON I.A.NO.18 IN MISC NO.5/2019 BY THE ITINERARY SITTING AT SENIOR CIVIL JUDGE HUVINAHADAGALI PRODUCED AT ANNEXURE-AD, IN THE INTEREST OF JUSTICE AND EQUITY 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 in nature of certiorari or any other appropriate writ and quash the order passed on I.A.No.18 in Misc No.5/2019 by the Itinerary Sitting at Senior Civil Judge Huvinahadagali produced at **ANNEXURE-AD**, in the interest of justice and equity.
 - ii) Pass such other order or orders as this Hon'ble court may deem fit in the circumstances of the case.
- A suit in OS No.11/1991 had been filed seeking for declaration and possession as also mesne profits,



which came to be decreed on 08.10.1993. Pursuant thereto execution proceedings have been filed in Execution Petition No.21/2018, insofar as the declaration and possession aspect is concerned. Insofar as the mesne profits are concerned, proceeding in Miscellaneous Case No.5/2019 had been initiated, for enquiry into the mesne profits which are required to be paid in terms of the decree passed.

4. In the execution proceedings, certain persons had filed an application under Order XXI Rule 97 of CPC claiming to be in possession obstructing the execution of the decree for possession. On that basis, the petitioner who is the judgment debtor had filed an application under Section 10 of the CPC in Miscellaneous Case No.5/2019 seeking for stay of the enquiry into the mesne profits pending the disposal of the Execution Petition No.21/2018. The said



application having been dismissed, the petitioner is before this Court seeking for the aforesaid reliefs.

- 5. Sri.Mahantesh R Patil, learned counsel for the petitioner would submit that there being objectors who had filed application EP No.21/2018 claiming to be in possession, the petitioner not being in possession of the property would not be required to make payment of any mesne profits in Miscellaneous Case No.5/2019 and as such the proceedings in Miscellaneous case No.5/2019 ought to be stayed until the disposal of Execution Petition No.21/2018.
- 6. His submission is that it is only after the orders are passed on the obstructed application which is now posted for evidence, could Miscellaneous Case No.5/2019 be taken up.
- 7. Heard. Perused the writ petition papers.
- The proceedings in Execution Petition No.21/2018 for execution of the decree of possession which had



been passed in OS No.11/1991 insofar as Miscellaneous Case No.5/2019 is concerned, the same relates to mesne profits, if required, to be paid by the respondent therein and quantum of mesne profits., it is for the petitioner in Miscellaneous Case No.5/2019 to establish that the petitioner is entitled to mesne profits as also the period and the quantum, for which the petitioner is entitled to.

9. The petitioner could always defend Miscellaneous case No.5/2019 by establishing that the petitioner is not in possession, has not derived any benefit from the property in question and therefore there is no question of making payment of mesne profits. The enquiry in Miscellaneous case No.5/2019 is different from the enquiry in Execution Petition No.21/2018. Though there may be certain overlap, merely because there is a overlap, would not make Section 10 of the CPC applicable to stay the further proceeding Miscellaneous Case No.5/2019.

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10. In that view of the matter, reserving liberty to the petitioner to place all such evidence on record to establish claim that the petitioner is not required to make payment of any mesne profits, the petition

11. Pending IA's stand disposed.

stands **disposed**.

SD/-(SURAJ GOVINDARAJ) JUDGE

SH CT:PA

LIST NO.: 1 SL NO.: 7