



CNR: KAHC010007852023

NC: 2026:KHC:44815
WP No. 162 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 162 OF 2023 (GM-CPC)

BETWEEN:

SRI. C.V. MANOJ
S/O SRI. VEERABHADRAPPA
AGED ABOUT 30 YEARS
OCC: AGRICULTURE
R/AT BRAHMINS STREET
BEHIND AMRUTHESHWARI TEMPLE
KOTE, ARAKALAGUD,
ARAKALAGUD TALUK,
HASSAN DISTRICT - 573 102.

...PETITIONER

(BY SRI. PRASANNA V.R, ADVOCATE)

AND:

1. SMT. NINGAJAMMA
W/O LATE MARIGOWDA
AGED 70 YEARS
R/AT KOTEHINDALAKOPPALU VILLAGE
ARAKALAGUDI TOWN,
HASSAN DISTRICT - 573 102.
2. SMT. PREMA
W/O RANGEGOWDA
AGED 45 YEARS
R/AT KOTEHINDALAKOPPALU VILLAGE



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ARAKALAGUDI TOWN,
HASSAN DISTRICT - 573 102.

3. SMT. JYOTHI
W/O RAMEGOWDA
AGED 45 YEARS
R/AT KOTEHINDALAKOPPALU VILLAGE
ARAKALAGUDU TOWN
HASSAN DISTRICT - 573 102.
4. SMT. NAGARATHNA
W/O KRISHNA
AGED 42 YEARS
R/AT KOTEHINDALAKOPPALU VILLAGE
ARAKALAGUDI TOWN
HASSAN DISTRICT - 573 102.
5. SRI. RAVI
S/O LATE MARIGOWDA
AGED 44 YEARS
R/AT KOTEHINDALAKOPPALU VILLAGE
ARAKALAGUDI TOWN
HASSAN DISTRICT - 573 102.
6. SRI. THAMMAIAH
S/O LATE MARIGOWDA
AGED 45 YEARS
R/AT KOTEHINDALAKOPPALU VILLAGE
ARAKALAGUDU TOWN
HASSAN DISTRICT - 573 102.

...RESPONDENTS

(BY SRI. SHARANAPPA, ADVOCATE FOR
SRI. MANJUNATHA B, ADVOCATE FOR R1 TO R6)



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THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DTD 25.11.2022 IN M.A.NO.15/2022 PASSED BY THE LEARNED SENIOR CIVIL JUDGE AND JMFC, AT ARAKALGUD, VIDE ANNEXURE-A AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated 25.11.2022 passed in M.A.No.15/2022 by the Senior Civil Judge and JMFC, Arakalagud (hereinafter referred to as the 'appellate Court' for short).

2. Heard Sri. Prasanna V.R., learned counsel appearing for the petitioner and Sri Sharanappa, learned Counsel appearing on behalf of Sri Manjunatha B, learned counsel for the respondents.



3. The petitioner herein filed a suit in O.S.No.299/2021 seeking the relief of permanent injunction against the respondents/defendants. The suit schedule properties consist of two items. Item No.1 is a vacant site and Item No.2 is stated to be a house property. In the said suit, the defendants filed a written statement denying the plaint averments and sought for dismissal of the suit.

4. It is to be noticed that respondent No.1 also filed a suit in O.S.No.285/2021 against the petitioner herein. It is further to be noticed that, during the pendency of the said suit, the petitioner filed an application in I.A.No.2 under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, 'CPC') in O.S.No.299/2021. The trial Court vide order dated 07.07.2022, allowed the said application by restraining the defendants from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiff till the disposal of the suit.



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5. The trial Court further restrained the plaintiff from putting up any construction over the suit schedule property by encroaching upon the property of the defendants towards the western side of the suit schedule property and without obtaining permission from the concerned authority for any sort of construction.

6. The respondents assailed the said order before the appellate Court and the appellate Court, vide order dated 25.11.2022, allowed the appeal. The order of the trial Court dated 07.07.2022 passed on I.A.No.2 in O.S.No.299/2021 was set aside and, consequently, the application for temporary injunction was rejected by vacating the order of temporary injunction.

7. It is to be noticed that the appellate Court had considered the Court Commissioner's report, which is produced as Annexure-F to the writ petition, and came to the conclusion that the plaintiff had made an encroachment upon a portion of the land bearing Survey No.181 of Arakalagud village, owned and possessed by



defendant No.1, which is shown by a slant line in the sketch submitted by him and considering the same allowed the appeal. However, the appellate Court has also recorded that the plaintiff had objected the said Commissioner's report, indicating that the report is factually incorrect.

8. It is further to be noticed that the plaintiff is making an assertion that item No.1 of the suit schedule property is a vacant land and Item No.2 is an old house, which is being demolished and that he is trying to carry out renovation of the said house. However, the defendants are obstructing such activity.

9. It is also to be noticed that the Court Commissioner's report is the primary basis for the appellate Court to reverse the finding of the trial Court, and the said report is being objected to by the petitioner/plaintiff in the suit by filing objections.

10. Hence, I am of the considered view that until the correctness of the report is gone into by the trial Court



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and a finding is recorded with regard to the encroachment, it would be difficult for the Court to come to a conclusion as to whether the plaintiff is entitled to temporary injunction or not, during the pendency of the said proceedings, in view of the specific findings in the Court Commissioner's report.

11. Hence, it would be appropriate to direct the parties to maintain status quo with regard to the possession and enjoyment of the suit schedule property by directing the trial Court to dispose of the suit as expeditiously as possible.

12. It is also to be noticed that, after the order of the appellate Court, which is impugned in the present petition, the suit filed by respondent No.1 in O.S.No.285/2021 came to be withdrawn on 26.06.2023. In view of the aforesaid facts also, I am of the view that, instead of recording a finding on the correctness of the impugned order, it would be appropriate to direct the plaintiff and the defendants in O.S.No.299/2021 to



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maintain status quo with regard to the possession and enjoyment of the suit schedule property till the disposal of the suit.

13. In view of the above, the writ petition is ***disposed of.***

14. It is made clear that this Court has not made any observation regarding the merits of the case.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

SHS
List No.: 1 Sl No.: 31