



CNR: KAHC010292612018

NC: 2026:KHC:37926
W.P. No.44551/2018
C/W W.P. No.39388/2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.44551/2018 (GM-CPC)

C/W

WRIT PETITION NO.39388/2019 (GM-CPC)

IN W.P. No.44551/2018:

BETWEEN:

1. CHANNABASAPPA .H
S/O RAMACHANDRAPPA
AGED ABOUT 64 YEARS
HIRESHAKUNA, KASABA HOBLI
SORABA TALUK-577 429
SHIVAMOGGA DISTRICT.

2. VIMALAMMA
W/O CHANNABASAPPA .H
AGED ABOUT 54 YEARS.

SINCE DEAD, REP. BY HER LR'S.

2(a) RENUKA
D/O LATE VIMALAMMA
W/O CHATRAPATHI
AGED ABOUT 38 YEARS
R/O HIRESHAKUNA, KASABA HOBLI
SORABA TALUK-577 429
SHIVAMOGGA DISTRICT.

2(b) SHYAMALA K.C.
D/O LATE VIMALAMMA
W/O SATISH G

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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AGED ABOUT 36 YEARS
R/O. JAMBANI VILLAGE
SORABA TALUK-577431
SHIVAMOGGA DIST.

- 2(c) DEEPA K.C.
D/O LATE VIMALAMMA
W/O NAVEEN K.N.
AGED ABOUT 34 YEARS
R/O. DUGUR VILLAGE, ULAVI POST
SORABA TALUK – 577434
SHIVAMOGGA DIST.

[AMENDED AS PER ORDER DTD:18.06.2025].

...PETITIONERS

(BY SRI. S.V. PRAKASH, ADV.,)

AND:

1. MANAGING DIRECTOR
KARNATAKA STATE SMALL SCALE INDUSTRIES
DEVELOPMENT CORPORATION LTD.,
ADMINISTRATIVE OFFICE BUILDING
RAJAJINAGAR INDUSTRIAL TOWN
BENGALURU-560 023.
2. ASSISTANT GENERAL MANAGER
(INDUSTRIAL ZONE)
KARNATAKA STATE SMALL SCALE INDUSTRIES
DEVELOPMENT CORPORATION LTD.,
ADMINISTRATIVE OFFICE BUILDING
SHIVAMOGGA-577 201.
3. CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560 001.



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4. PRINCIPAL SECRETARY
REVENUE DEPARTMENT
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560 001.
5. DEPUTY COMMISSIONER
SHIVAMOGGA DISTRICT
SHIVAMOGGA-577 201.
6. ASSISTANT COMMISSIONER
SAGAR SUB DIVISION
SAGAR-577 401
SHIVAMOGGA DISTRICT.
7. TAHASILDHAR / MUZARAI OFFICER
SORABA-577 429, SORABA TALUK
SHIVAMOGGA DISTRICT.

...RESPONDENTS

(BY SRI. B.A. CHANDRASHEKAR, ADV., FOR R1 & R2
SMT. K.P. YASHODHA, AGA FOR R3 TO R7)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DTD 29.08.2018 PASSED BY THE LEARNED SENIOR CIVIL JUDGE & JMFC, SORABA IN M.A.NO.8/2017 OVERTURNING THE ORDER DTD 26.07.2017 HANDED DOWN BY THE LEARNED PRINCIPAL CIVIL JUDGE & JMFC, SORABA ON IA NO.IV IN O.S.NO.179/2016 VIDE ANNEX-E TO THE W.P. AND CONSEQUENTLY RESTORE THE ORDER DTD 26.07.2017 HANDED DOWN BY THE LEARNED PRINCIPAL CIVIL JUDGE & JMFC, SORABA ON IA NO.IV IN O.S.NO.179/2016 VIDE ANNEXURE-C & ETC.,



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IN W.P. NO.39388/2019:

BETWEEN:

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S/O RAMACHANDRAPPA
AGED ABOUT 64 YEARS
HIRESHAKUNA, KASABA HOBLI
SORABA TALUK-577 429
SHIVAMOGGA DISTRICT.
2. VIMALAMMA
W/O CHANNABASAPPA .H
AGED ABOUT 54 YEARS.

SINCE DEAD, REP. BY HER LR'S.
- 2(a) RENUKA
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AGED ABOUT 38 YEARS
R/O HIRESHAKUNA, KASABA HOBLI
SORABA TALUK-577 429
SHIVAMOGGA DISTRICT.
- 2(b) SHYAMALA K.C.
D/O LATE VIMALAMMA
W/O SATISH G
AGED ABOUT 36 YEARS
R/O. JAMBANI VILLAGE
SORABA TALUK-577431
SHIVAMOGGA DIST.
- 2(c) DEEPA K.C.
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SHIVAMOGGA DIST.

[AMENDED AS PER ORDER DTD:18.06.2025].

...PETITIONERS

(BY SRI. S.V. PRAKASH, ADV.,)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560001.
2. THE PRINCIPAL SECRETARY
REVENUE DEPARTMENT
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560001.
3. DEPUTY COMMISSIONER
SHIVAMOGGA DISTRICT
SHIVAMOGGA-577201.
4. ASSISTANT COMMISSIONER
SAGARA SUB DIVISION
SAGARA-577401.
5. TAHASILDHAR / MUZARAI OFFICER
SORABA-577429, SORABA TALUK
SHIVAMOGGA DISTRICT.
6. MANAGING DIRECTOR
KARNATAKA STATE SMALL SCALE INDUSTRIES
DEVELOPMENT CORPORATION LTD
ADMINISTRATIVE OFFICE BUILDING
RAJAJINAGAR INDUSTRIAL TOWN
BENGALURU-560023.



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7. ASSISTANT GENERAL MANAGER
(INDUSTRIAL ZONE)
KARNATAKA STATE SMALL SCALE INDUSTRIES
DEVELOPMENT CORPORATION LTD,
ADMINISTRATIVE OFFICE BUILDING
SHIVAMOGGA-577201.

...RESPONDENTS

(BY SMT. K.P. YASHODHA, AGA FOR R1 TO R5
SRI. B.A. CHANDRASHEKAR, ADV., FOR R6 & R7)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE
ORDER DATED 09.07.2019 PASSED BY THE COURT OF
LEARNED PRINCIPAL CIVIL JUDGE AND JMFC, SORABA ON
I.A.NO.6 IN O.S.NO.179/2016 TRANSFERRING THE SAID
APPEAL TO THE SPECIAL COURT ESTABLISHED IN
BENGALURU AS PER THE PROVISIONS CONTAINED UNDER
KARNATAKA LAND GRABBING PROHIBITION ACT, 2011 AS
PER ANNEXURE-L TO THE WRIT PETITION & ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED
ON 21.07.2026, COMING ON FOR PRONOUNCEMENT OF
ORDER, THIS DAY, THE COURT MADE THE FOLLOWING:

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



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CAV ORDER

W.P.No.44551/2018 is filed challenging the order dated 29.08.2018 passed in M.A.No.8/2017 by the Senior Civil Judge and JMFC, Soraba (hereinafter referred to as the 'Appellate Court'). W.P.No.39388/2019 is filed challenging the order dated 09.07.2019 passed on I.A.No.6 in O.S.No.179/2016 by the Principal Civil Judge and JMFC-Soraba (hereinafter referred to as the 'Trial Court').

2. Sri.S.V.Prakash, learned counsel appearing for the petitioners in both the petitions submits that the father of the petitioners was in an unauthorised occupation of the land and hence, filed an application seeking regularisation. It is submitted that the respondent Nos.6 and 7 appears to have been granted 20 acres in a larger extent of land available in Sy.No.113, Hireshakuna Village. It is further submitted that when the respondents tried to interfere with the lawful possession of the petitioners, they filed a



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suit for permanent injunction. The Trial Court granted temporary injunction and thereafter, the defendants in the suit filed an application seeking to transfer the suit to the Special Court established under the Karnataka Land Grabbing Prohibition Act, 2011 (for short, 'the Act') and the Trial Court, without any enquiry allowed the application and the suit has been transferred to the Special Court which is impermissible. It is also submitted that in the connected writ petition, the order of the Appellate Court is assailed wherein the Appellate Court allowed the appeal filed by the respondent Nos.1 and 2- Karnataka State Small Scale Industries Development Corporation Ltd. (for short, 'the KSSSIDC'), by setting aside the temporary injunction order granted in favour of the petitioners-plaintiffs with a direction to provide opportunity to all the parties. However, it has failed to protect the possession of the plaintiffs till disposal of the application for temporary injunction after remand to the Trial Court. It is contended that the allotment of certain



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extent of land in favour of KSSSIDC was challenged by the petitioners before the Karnataka Appellate Tribunal, Bengaluru (for short, 'the KAT'), wherein, initially there was an interim order and later the same came to be dismissed, which was challenged in W.P.No.11049/2026 before this Court. In support of his contentions, he placed reliance on the decision of this Court in the case of **SRI.E.S.SATISH KUMAR AND OTHERS Vs. CHIEF SECRETARY, GOVERNMENT OF KARNATAKA AND OTHERS¹** and **SRI.GANGADHARA AND OTHERS Vs. THE STATE OF KARNATAKA AND OTHERS²**. Hence, he seeks to allow both the petitions.

3. *Per contra*, Sri.B.A.Chandrashekar, learned counsel for respondent Nos.1 and 2-KSSSIDC supports the impugned orders of the Trial Court as well as the Appellate Court and submits that the KSSSIDC have been allotted 20 acres of land and the petitioners, without any authority,

¹ W.P.No.23611/2019 dt. 02.07.26

² W.P.No.35369/2018 dt. 12.10.18



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were in illegal possession of the land allotted to the KSSSIDC. It is submitted that the Trial Court has rightly come to the conclusion that the petitioners are in unauthorised occupation of the land which is a Government land and transferred the suit to the Special Court established under the provisions of the Act. It is further submitted that the temporary injunction granted by the Trial Court has been reversed by the Appellate Court by considering the material placed before it and no protection can be granted to the petitioners as the petitioners are squatting over the property of the Government which was allotted to these respondents. It is also submitted that the written statement filed by the Tahsildar clearly indicates that the land is a Government land and petitioners being in illegal possession, fall within the definition of a 'land grabber' as per the Act. Hence, the Trial Court has rightly transferred the suit to the Special Court established under the Act, which does not



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call for any interference. Hence, he seeks to dismiss both the petitions.

4. Learned Additional Government Advocate appearing for the respondent-State supports the orders under challenge and submits that the case of the petitioners is that they are in illegal occupation of the Government land which itself establishes that the land in question is a Government land and considering all the documents placed by the plaintiffs, the Trial Court has rightly come to the conclusion that the schedule property is a Government land and ordered to transfer the suit to the Special Court established under the Act and no prejudice would be caused to the petitioners-plaintiffs by such an order. It is submitted that the petitioners' application for regularisation was rejected by the Committee on 07.04.2007, therefore, the petitioner has no right to continue in the said property. Hence, she seeks to dismiss the petitions.



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5. In reply, learned counsel for the petitioners submits that the order rejecting the application for regularisation was never communicated to the petitioners and furthermore, the petitioners and others have filed a writ petition seeking a writ of mandamus to consider their application for regularisation and the said petition was disposed of on 01.03.2017 with a direction to consider the application of the petitioners for regularisation. Hence, the State cannot contend that the application was rejected.

6. I have heard the arguments of the learned counsel for the petitioners, learned counsel for the KSSSIDC, the learned Additional Government Advocate for the respondent-State and meticulously perused the material available on record.

7. The petitioners claim to be in an unauthorized occupation and cultivation of land measuring 4 acres in



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Sy.No.113, Hirehakuna Village and they have filed an application in Form No.50 of the Karnataka Land Revenue Act, 1964, seeking for regularisation of the unauthorised occupation of the Government land. It was averred that the petitioners were in occupation of 4 acres of the land in the aforesaid survey number out of larger extent and in the very same survey number, the land has been granted to the KSSSIDC. The petitioners approached the KAT challenging the order of grant and the order of grant was stayed and thereafter, the appeal filed by the petitioners was dismissed by the KAT. It is to be noticed that the order of the KAT was assailed by the petitioners before this Court in W.P.No.11049/2026. It is pointed out that when there was interference with the peaceful possession of the petitioners over the land, the petitioners filed a suit in O.S.No.179/2016 seeking a decree of permanent injunction. It is to be noticed that the Trial Court granted temporary injunction during the pendency of the suit. The defendants filed a detailed written statement denying the



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plaint averments, the matter was posted for evidence and at that stage, the respondents challenged the order of granting temporary injunction before the Appellate Court and the Appellate Court in M.A.Nos.08/2017 and 14/2017 filed by the KSSSIDC and the State respectively, set aside the order of temporary injunction granted on 27.06.2017 and the matter was remanded back to the Trial Court to re-consider the same after providing an opportunity to the defendants by permitting them to file objections to the said application. It is further to be noticed that after remand, the Trial Court has not considered the application of the petitioners-plaintiffs for temporary injunction which is pending. The defendant Nos.1 to 5 filed an application under Section 20 of the Act, seeking transfer of the suit to the Special Court constituted under the said Act. The Trial Court, after considering the contentions advanced, allowed the application in I.A.No.6 and ordered to transfer the suit to the Special Court.



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8. It is to be noticed that the Trial Court, while ordering the transfer has observed that the plaintiffs have produced 30 documents which clearly establish that the land is a Government land and hence, the provisions of the Act is applicable. In my considered view, the Trial Court has committed a grave error in coming to such conclusion.

9. At this stage, it would be useful to refer to paragraphs 13 to 16 of the decision of this Court in the case of ***E.S.SATHISH KUMAR*** referred *supra*, which reads as under:

"13. Considering the factual matrix of the case and law on the point, I am of the view that the following aspects are required to be considered by the Trial Court while transferring the suit to the Special Court established under the Act.

a) The act of 'land grabbing' ought to be a conscious act on the part of the land grabber attempting to illegally inject himself into the land without any prima facie legal entitlement.



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b) For any action to be initiated under the Act, there must be a positive action by the Authorities concerned against any person for the act of 'land grabbing'.

c) Though the Special Court has the power to decide on the issues with regard to title and possession, it is the duty of the Trial Court to determine whether the matter or issue at hand involves 'land grabbing' as per the Act and record a reasoned finding, with regard to the same and in the absence of any matter or issue with regard to 'land grabbing', the transfer of the suit to the Special Court would be contrary to Section 20 of the Act.

14. In the instance, it is clear that the petitioners are claiming their title on the basis of the sale certificate dated 21.03.1956 and merely because the respondents were not party to the suit in which the sale certificate was issued, the petitioners cannot be termed as land grabbers. Hence, there is a clear legal entitlement to the claim of the petitioners and it is prima facie not an act of illegally taking possession. It is further clear that the respondents have neither made an allegation against the petitioners for 'land grabbing' nor have they undertaken any positive action to initiate



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proceedings against the petitioners for the act of 'land grabbing' and in the absence of such positive action, the case on hand cannot be considered to fall within the purview of the Act. It is also noticed that the Trial Court has made a specific finding that the respondents have not made a specific allegation against the petitioners for land grabbing but the same is implied as per the written statement filed by the respondents, such an inference by the Trial Court, without there being an express allegation against the petitioner is impermissible. Furthermore, the Trial Court in the impugned order has not recorded a finding with regard to the satisfaction that the petitioners have committed the act of 'land grabbing' without any lawful entitlement as per the Act. Hence, in absence of such a specific finding that the petitioners are alleged to have committed the act of land grabbing, the same cannot be transferred to the Special Court established under the Act.

15. Therefore, in the instant case, the sale certificate dated 21.03.1956 was issued in Execution Case No.26/1956 on the basis of a decree in O.S.No.64/1947-48. Hence, the said sale certificate grants a lawful entitlement to the petitioners to claim ownership over the land and the



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respondent-Authorities though dispute the same, do not contend that the said sale certificate is either obtained by fraud or forgery. Furthermore, with regard to mere allegation being sufficient to invoke the jurisdiction of the Special Court, in the instant case, there are no allegations made by the respondent-Authorities that the petitioners have committed land grabbing.

16. It is to be noted that the Special Courts have been established under the Act in order to facilitate specialized and speedy disposal of disputes with regard to 'land grabbing' and if civil suits involving declaration and possession are mechanically transferred to the Special Court merely because the State has taken defence in the written statement in a suit that a property is a Government property, then the same would amount to defeating the intent of the legislature. In view of the above analysis, I am of the view that the learned counsel for the petitioners rightly submits that the issue at hand does not involve the Act of 'land grabbing' and the Special Court does not have the jurisdiction to try the same as per the Act."



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10. It would also be useful to refer to paragraphs 6 to 8 of the decision of this Court in the case of **SRI.GANGADHARA AND OTHERS** which is extracted hereinbelow:

"6. As per Sections 7 and 9 of the Act, a Special Court has jurisdiction to try any alleged act of land grabbing, cases in respect of the ownership and title to, or lawful possession of, the land grabbed and offences specified in Chapter XIV-A of the Karnataka Land Revenue Act, 1964. The matters specified in Section 7(1) of the Act will fall within the jurisdiction of a Special Court.

7. As per Section 20 of the Act, the trial Court, before directing transfer of any suit to the Special Court, has to examine as to whether the suit would fall within the jurisdiction of the Special Court. Therefore, the trial court will have to examine as to whether the suit relates to any of the matters specified in Section 7(1) of the Act or as to whether any issue relating to those matters would fall for determination in the suit. If the suit involves any of those matters or any issue relating to those matters, then only the suit shall be transferred to the Special Court. In the absence of any such



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matter or issue, transferring the suit to the Special Court will be contrary to Section 20 of the Act.

8. In the case on hand, the trial Court has directed transfer of the suit to the Special Court without examining as to whether the suit would fall within the jurisdiction of the Special Court. Nowhere in the impugned order, the trial court has stated that the suit involves adjudication of any of the matters specified in Section 7(1) of the Act or any issue relating to those matters to warrant its transfer to the Special Court. Hence, the impugned order dated 30.07.2018 is set aside. The matter is remitted to the trial Court for reconsideration in accordance with law in the light of the observations made in this order. All contentions of both the parties are kept open."

11. Keeping in mind the enunciation of law laid down by this Court in the aforesaid decisions, it is required to be noticed that the plaintiffs are specifically making assertions that they are in unauthorised occupation of the Government land and sought for regularisation as provided under the Karnataka Land Revenue Act, 1964 and their application for regularisation is pending before the



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competent authority. Now, the learned Additional Government Advocate made an oral submission that the application of the petitioners has been rejected on 07.04.2007, however, no such averment is made in the written statement filed by the Tahsildar before the Trial Court. It is borne out from the record that the petitioners are in possession and enjoyment of the property in question from ages and when the defendants tried to interfere with their possession, a suit for permanent injunction came to be filed. Whether the possession of the petitioners is lawful and whether their application for regularisation was rejected, are the matters required to be gone into by the Trial Court, while deciding the suit. In such circumstances, the plaintiffs cannot be termed as land grabbers. The law provides to seek regularisation of their unauthorised occupation of the Government land and when their prayer for regularisation is pending before the Authority, the occupation of the land by the plaintiffs cannot be termed as land grabbing. The act of land



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grabbing should be a conscious act on the part of the land grabber, there must be a positive action by the Authorities to remove the unauthorised occupation of the petitioners and in the absence of any such proceedings allowing of the application filed by the defendants under Section 20 of the Act in a suit filed by the plaintiffs, seeking an order of restraint against the defendants would not arise. The Trial Court is required to first ascertain as to whether the *lis* pending before it falls within the definition of 'land grabbing' and the subject matter of the suit relates to any of the matter specified in Section 7(1) of the Act. In the absence of any such exercise, mechanically ordering to transfer the suit to the Special Court established under the Act, is impermissible and the same calls for interference.

12. It is to be noticed that the Trial Court, in the aforesaid suit, vide order dated 26.07.2017 allowed the plaintiffs' application filed under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 (for short, 'the CPC'),



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and restrained the defendants from interfering and disturbing the plaintiffs' peaceful possession over the suit schedule property till disposal of the suit. The said order of the Trial Court was assailed by the Government as well as KSSSIDC in M.A.Nos.14/2017 and 8/2017, respectively. The Appellate Court allowed M.A.No.8/2017 vide order dated 29.08.2018 and the matter was remitted back to the Trial Court to re-consider I.A.No.4 filed by the plaintiffs under Order XXXIX Rule 1 and 2 of the CPC, mainly on the ground that the appellant-KSSSIDC had not filed objections to the application for temporary injunction. However, the Appellate Court failed to protect the possession of the plaintiffs during the interregnum period. Hence, it would be appropriate to direct the defendants in the suit not to dispossess the plaintiffs till disposal of the suit. Similar order is passed by the Co-ordinate Bench of this Court in the case of **CHANNABASAPPA H. AND ANOTHER Vs. CHIEF SECRETARY, GOVERNMENT OF**



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KARNATAKA AND OTHERS³, wherein the Co-ordinate Bench has modified the order of the Appellate Court by directing the defendants – respondents to file objections to I.A.No.4 as ordered by the Appellate Court and that till such consideration by the Trial Court, the defendants-respondents shall not interfere with the peaceful possession and enjoyment of the suit schedule property by the plaintiffs. The said order was passed by this Court wherein the order of the Appellate Court dated 29.08.2018 passed in M.A.No.14/2017 was challenged. In W.P.No.44551/2018, the challenge is to the order dated 29.08.2018 passed in M.A.No.8/2017 between the same parties. Hence, the benefit of not interfering with the peaceful possession and enjoyment over the suit schedule property by the plaintiffs till disposal of the plaintiffs' application under Order XXXIX Rule 1 and 2 of the CPC, is required to be extended.

³ W.P.No.44557/2018 dt. 21.03.2019



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13. For the preceding analysis, i proceed to pass the following:

ORDER

- (i) W.P.No.44551/2018 is ***allowed***.
- (ii) The impugned order dated 29.08.2018 passed in M.A.No.8/2017 by the Senior Civil Judge and JMFC, Soraba, is upheld insofar as remanding the matter back to the Trial Court to re-consider I.A.No.4 with a modification that till the Trial Court considers and passes an order on I.A.No.4 filed under Order XXXIX Rule 1 and 2 of the CPC, by the plaintiffs, the defendants shall not interfere with the peaceful possession and enjoyment of the suit schedule property by the plaintiffs.
- (iii) W.P.No.39388/2019 is ***allowed***.
- (iv) The impugned order dated 09.07.2019 passed on I.A.No.6 in O.S.No.179/2016 by the Principal Civil Judge and JMFC, Soraba, is set aside.



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Consequently, I.A.No.6 filed by the respondent
Nos.1 to 5 is rejected.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 1 Sl No.: 1