



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 18956 OF 2026 (GM-CPC)

BETWEEN:

1. M/S. FINE HOMES,
BY ITS PARTNERS

A) MR. KHADAR IQBAL,
S/O MR. N.ABDUL KHADAR,
AGED ABOUT 54 YEARS.

B) MRS. SABIHA,
W/O MR. KHADAR IQBAL,
AGED ABOUT 40 YEARS.

BOTH ARE R/AT NO.12/9,
STEPHENS ROAD,
OPP. HASNATH GIRLS HOSTEL,
FRAZER TOWN,
BENGALURU - 560 005.

ALSO AT MUNICIPAL CORPORATION
NO.4CC-534, "MANOR ABODE",
PID NO- 88-254-4CC-534,
SITUATED AT HRBR LAYOUT,
2ND BLOCK, BANASWADI,
BENGALURU - 560 043.

2. MR. KHADAR IQBAL,
S/O MR.N.ABDUL KHADAR,
AGED ABOUT 54 YEARS,



3. MRS. SABIHA,
W/O MR. KHADAR IQBAL,
AGED ABOUT 40 YEARS,
BOTH ARE R/AT NO.12/9,
STEPHENS ROAD,
OPP. HASNATH GIRLS HOSTEL,
FRAZER TOWN,
BENGALURU - 560 005.

...PETITIONERS

(BY SRI. SKANDA KUMAR, ADVOCATE FOR
SRI. M.D.RAGHUNATH., ADVOCATE)

AND:

1. MRS. SAYEEDA FARHATH,
D/O MR. S.FEROZ AHMED,
W/O MR. SAMIULLAH SHARIEFF,
AGED ABOUT 40 YEARS,
R/AT NO.223, SEPPINGS ROAD,
SHIVAJINAGAR,
BENGALURU - 560 001.
2. MRS. ARIFA ANEES,
D/O MR. S.FEROZ AHMED,
W/O MR. ANEES AHMED,
AGED ABOUT 37 YEARS,
R/AT NO.16, CHIMMASWAMY
MUDALIAR ROAD, TASKER TOWN,
SHIVAJINAGAR,
BENGALURU - 560 051.
3. MRS. RAFIA BEGUM,
D/O MR. S.FEROZ AHMED,
W/O MR.YASEEN SHARIFF.M.A,
AGED ABOUT 34 YEARS,



R/AT NO.32/1, SPENCER ROAD CROSS,
FRAZER TOWN,
BENGALURU - 560 005.

RESPONDENTS 1 TO 3 ARE
REPRESENTED BY THEIR GPA HOLDER
MR. MOHAMED SAMIULLA SHARIFF,
S/O LATE MR. ZAIAULLA SHARIFF MOHAMED,
HUSBAND OF MRS. SYEEDA FARHATH,
AGED ABOUT 55 YEARS,
R/AT NO.223, SEPPINGS ROAD,
BHARATHINAGAR,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI.R.B.SADASIVAPPA, ADVOCATE FOR C/R1 TO 3)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO ALLOW THE WP WITH
COSTS; QUASHING THE ORDERS PASSED ON IA NO.4 PASSED
BY THE LXXXIV ADDL. CITY CIVIL JUDGE BENGALURU IN COM.
OS NO.831/2025, CCH-85 DATED 09.06.2026 PRODUCED AT
ANNEXURE - F.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed aggrieved by the
orders passed in I.A.No.4 in Commercial O.S.No.831/2025
dated 09.06.2026, passed by the LXXXIV Additional City Civil
Judge Bengaluru, the defendants are before this Court.



2. The respondents herein have filed a suit for eviction and for arrears of rent and damages. After the evidence on behalf of both the parties was concluded, the present I.A was filed seeking the appointment of a Court Commissioner to prove issue No.6 in the suit, i.e., whether the defendants have vacated the suit premises, for local inspection to ascertain the persons who have been in possession of the suit schedule premises. That came to be dismissed by the order impugned. While dismissing the applications, the Court observed that it is specifically stated that the defendants have vacated the suit premises on 21.02.2024 and that the plaintiffs have repaid the security deposit amount of Rs.15 lakhs. Considering the defence raised by the defendants, the Court has framed the issue and cast the burden on the defendants to prove that they have vacated the premises on 21.02.2024. If the defendants have vacated the suit schedule premises on 21.02.2024 and the plaintiffs have repaid the security deposit, the same can be proved by adducing cogent



evidence. As the plaintiffs let out the suit schedule premises for a service apartment, if a Court Commissioner is appointed, he will not be in a position to ascertain the facts that the defendants have vacated the suit schedule premises, and some other tenants have come into possession of the suit schedule premises. The Court has further observed that the defendants have not made out bona fide grounds to reopen the case and permit them to file the application for appointment of a Court Commissioner, and that they have failed to make out bona fide grounds for the appointment of the Court Commissioner, and accordingly dismissed the same.

3. Learned counsel appearing for the petitioners-defendants submits that it is the specific case of the defendants that they are not in occupation of the property, and that an issue is framed casting the burden upon the defendants to prove that they have vacated the premises. In these circumstances, if the Court Commissioner is appointed to inspect the premises, he will be able to



record who is in occupation of the premises. The Court has failed to consider this aspect, and if the Court Commissioner is not appointed, that would cause a lot of hardship to the defendants.

4. Learned counsel appearing for the respondent - Caveator - plaintiff submits that the premises are used as a service apartment, the defendants are not residing in the premises, and no useful purpose would be served by allowing this application. The Court has rightly dismissed the petition.

5. Having heard the learned counsel on either side and perused the material on record, the Court finds that the petitioner has filed this application to appoint the Court Commissioner to inspect the premises and collect evidence regarding who is in possession of the property. According to the plaintiff, it is a service apartment, the defendants are not residing in the said premises, and, even if the Court Commissioner is appointed, no useful purpose would



be served. In a suit, this kind of evidence collection is not proper, and the Court has rightly dismissed the application. This Court finds no reason to interfere and deems it appropriate to pass the following:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. Any observations made by this Court while disposing of this I.A. shall not be construed as an expression of this Court's opinion. The Court shall decide the petition in accordance with the law.
- iii. Pending I.As if any, in this writ petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

GH
List No.: 1 Sl No.: 20