HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

WRIT PETITION NO. 923 OF 2024 (GM-CPC)

BETWEEN:

M/S. VAKIL HOUSING DEVELOPMENT
CORPORATION (P) LTD.,
NO.78, KORMANGALA,
INDUSTRIAL AREA
KORMANGALA, BANGALORE - 560 095
BANGALORE - 560 095,
REP. ITS MANAGING DIRECTOR,
MOHSIN ALI VAKIL
(REGISTERED UNDER COMPANIES ACT)

…PETITIONER

(BY SRI. B. RAMESH, ADVOCATE)

AND:

Digitally signed by MAMATHA R
Location: HIGH COURT OF KARNATAKA

1. SMT. MALATHI
D/O LATE VENKATASWAMY,
AGED 44 YEARS,

2. SMT. VASANTHA
D/O LATE VENKATASWAMY,
AGED 41 YEARS,

3. SMT. MUNIRATHNAMMA
D/O LATE VENKATASWAMY,
AGED 39 YEARS,

4. SMT. ASHA
D/O LATE VENKATASWAMY,
AGED 37 YEARS,

5. SRI. KANTHARAJU
S/O LATE VENKATASWAMY,
AGED 35 YEARS,

ALL RESPONDEN NO.1 TO 5 ARE
RESIDING AT JAIBHEEM NAGAR,
A.K COLONY, DODDAKERE BEGILU
ANEKAL TALUK,
BENGALURU URBAN DISTRICT
PIN - 562 106.

…RESPONDENTS

(BY SRI. SIVAMANITHAN S, ADVOCATE FOR R1 TO R4 (ABSENT);
R5 - KANTHARAJU - SERVED)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 05.12.2023 PASSED IN M.A.NO.12/2023 BY 2ND ADDITIONAL SENIOR CIVIL JUDGE AT JMFC AT ANEKAL AND THE ORDER DATED 23.03.2023 PASSED IN O.S.NO.459/2021 ON IA NO.1 BY THE PRINCIPAL CIVIL JUDGE AT JMFC, ANEKAL WHICH IS PRODUCED AND MARKED AS ANNEXURE-H AND J BY ALLOWING IA NO.1 FOR TEMPORARY INJUNCTION FILED UNDER ORDER XXXIX RULE 1 AND 2 OF CPC AND ETC.,

THIS PETITION, COMING ON FOR ORDERS THROUGH VIDEO CONFERENCNG / PHYSCAL HEARNG, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

The plaintiff is before this Court in this writ petition filed under Article 227 of the Constitution of India with a prayer to set aside the order dated 23.03.2023 passed on I.A.No.1 filed under Order XXXIX Rule 1 and 2 of the CPC in O.S.No.459/2021 by the Principal Civil Judge and JMFC, Anekal and the Order dated 05.12.2023 passed in M.A.No.12/2023 by the II Additional Senior Civil Judge and JMFC, Anekal vide Annexures-H and J.

2. Heard the learned counsel for the petitioner.

3. The petitioner herein had filed O.S.No.459/2021 before the Court of Principal Civil Judge and JMFC, Anekal, seeking the relief of permanent injunction against the defendants in respect to the suit schedule property bearing Survey No.11/2P (new Survey No.100), totally measuring 2 acres, situated at Honnakalasapura Village, Kasaba Hobli, Anekal Taluk, Bangalore District.

4. The contesting defendants have filed their written statement and have proposed the suit claim. I.A.No.1 was filed in O.S.No.459/2021 by the plaintiff under Order XXXIX Rules 1 and 2, read with Section 151 of the CPC, with a prayer to grant an order of temporary injunction restraining defendants from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiff. The said application was opposed by the contesting defendants by filing objections. The trial Court vide Order impugned dated 23.03.2023 had dismissed I.A.No.1 filed in O.S.No.459/2021 and the said order was confirmed by the Appellate Court in M.A.No.12/2023 vide order dated 05.12.2023. Aggrieved by the aforesaid two orders, the plaintiff is before this Court.

5. Learned counsel for the petitioner, having reiterated the grounds urged in this petition, submits that the prayer made by the petitioner in I.A.No.1 was dismissed for the reason that the jurisdictional Tahsildar

had issued a certificate dated 26.02.2021 to the effect that the claim made by the defendants and their predecessors in Form Nos.50, 53 and 57 in respect to the suit schedule property was pending consideration. He submits that during the pendency of this writ petition, the aforesaid certificate dated 26.02.2021 has been cancelled by the jurisdictional Assistant Commissioner on 27.06.2025. He submits that this Court, having appreciated the material on record, has granted an interim order while issuing notice to the respondents. The suit is at the stage of recording the plaintiff's evidence. Therefore, the writ petition may be disposed of, directing the trial Court to dispose of the suit within a time frame and till then, the interim order granted by this Court may be continued.

6. Perusal of the order impugned would go to show that the Courts below have placed reliance on the communication / certificate dated 26.02.2021 issued by the jurisdictional Tahsildar to the effect that the claim made in Form Nos.50, 53 and 57 for regularization of

unauthorized occupation of the suit schedule property by the defendants and their predecessor are pending consideration.

7. Learned counsel for the petitioner has produced a copy of the order dated 27.06.2025 passed by the Assistant Commissioner, Bengaluru South Sub-Division, Bengaluru, wherein the aforesaid communication / certificate dated 26.02.2021 issued by the Tahsildar, Anekal, Bengaluru, has been cancelled. In the order passed by the Assistant Commissioner, it is also stated that the Tahsildar had no jurisdiction to issue such a certificate. Material on record would go to show that the suit schedule property was converted by the vendor of the petitioner herein in the year 2003 itself and thereafter, under a registered sale deed dated 05.02.2004, the petitioner had purchased the suit schedule property. Be that as it may, the fact remains that this Court while issuing emergent notice to the respondents vide order dated 10.01.2024 has directed the parties to maintain the

status quo in all respects in relation to the suit schedule property and the said interim order is in operation even as on this date. It is brought to the notice of this Court that the suit in O.S.No.459/2021 is now at the stage of recording the plaintiff's evidence. Therefore, I am of the opinion that if this writ petition is disposed of with a request to the trial Court to expedite the trial in O.S.No.459/2021 and dispose of the suit as expeditiously as possible and in the meanwhile, if the interim order granted earlier is continued till the disposal of the suit, the same would serve the ends of justice. Accordingly, the following:

ORDER

i. The Writ Petition is hereby ***disposed of,*** with a request to the trial Court to expedite the trial in O.S.No.459/2021 and dispose of the suit on merits as expeditiously as possible but not later

than a period of eight months from the date of receipt of copy of this order.

ii. The interim order granted by this Court in this petition on 10.01.2024 shall continue during the pendency of the suit.

iii. Pending applications if any, stand disposed of.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

CH
List No.: 1 Sl No.: 7