

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2015

BEFORE

THE HON'BLE MR.JUSTICE ARAVIND KUMAR

WRIT PETITION NO.27511/2015(GM-CPC)

BETWEEN:

1. SRI. PAPANNA
S/O YELLAPPA
AGED ABOUT 38 YEARS
R/O HORABYLU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.
 2. SRI. MANJUNATH
S/O VADI NAGAPPA
AGED ABOUT 36 YEARS
R/O HORABYLU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.
 3. SRI. KUMARA
S/O BHARMAPPA
AGED ABOUT 38 YEARS
R/O HORABYLU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.
 4. SCHOOL BETTERMENT COMMITTEE
GOVERNMENT LOWER PRIMARY SCHOOL
HORABYLU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.
REPRESENTED BY SRI. PAPANNA
S/P YELLAPPA
AGED ABOUT 37 YEARS.
- ... PETITIONERS

(BY SRI. MAHABALESHWAR RAO, ADVOCATE)

AND:

1. SRI. NAGARAJA.P
S/O PUTTAPPA
AGED ABOUT 32 YEARS
R/O HORABYLU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.
2. SRI. BASAVARAJA.P
S/O PUTTAPPA
AGED ABOUT 27 YEARS
R/O HORABYLU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.
3. SRI. PUTTAPPA
S/O LATE CHOWDAPPA
AGED ABOUT 62 YEARS
R/O HOBABYLU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.
4. SMT. RATHNAMMA
W/O PUTTAPPA
AGED ABOUT 57 YEARS
R/O HORABULU, CHORDI POST
SHIVAMOGGA TALUK – 577 201.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 16.12.2014 IN O.S.NO. 487/2013 ON THE FILE OF CIVIL JUDGE & JMFC, SHIVAMOGGA (ANNEXURE-K) AND CONSEQUENTLY DIRECT THEN STATION HOUSE OFFICER, KUMSI POLICE STATION, KUMSI TO EXECUTE THE TEMPORARY INJUNCTION ORDER DATED 30.07.2014 GRANTED IN FAVOUR OF THE PETITIONERS.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard Sri.Mahabaleshwar Rao, learned counsel appearing for petitioners. Perused case papers.

2. Petitioners who are plaintiffs in O.S.No.487/2013 have contended that order of trial Court directing jurisdictional police to extend police protection having not been complied in principle, letter and spirit as ordered by the Court below are before this Court. In order to examine as to whether such factual matrix has unfolded in the present case, it would be apt and proper to extract the order of temporary injunction, which came to be granted by Court below on 30.07.2014, and it reads thus:

“Defendants, their men or any other person claiming through them are restrained from dispossessing the plaintiff No.4 i.e., School Betterment Committee from the suit schedule property during the pendency of the suit.”

3. Above order would clearly indicate that order of restraint passed against defendants is to restrain

defendants from dispossessing plaintiff No.4 from the suit schedule property. Apprehending that plaintiffs would not be able to sustain the force that may be exerted by the defendants, they filed I.A.No.4 seeking for police protection for implementation of order of temporary injunction. Trial Court has issued direction to the Station House Officer, Shivamogga, to give police protection to the plaintiffs and in furtherance to such direction issued. Jurisdictional Station House Officer has filed a report before Court on 09.04.2014, Annexure-F, whereunder it is stated that he has obtained an undertaking (ಮುಜ್ಜೀಕೆ) from defendants that they would not create any trouble in the suit schedule property and disturb the children studying in the school. In the words of the Station House Officer it reads:

“ಪ್ರತಿವಾದಿಗಳಾದ ನಾಗರಾಜ ಜನ್ ಪುಟ್ಟಪ್ಪ ಮತ್ತು ಬಸವರಾಜ ಜನ್ ಪುಟ್ಟಪ್ಪರವರುಗಳಿಗೆ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಶಾಲಾ ಮಕ್ಕಳಿಗೆ ಶಾಲಾ ಅವರಣದಲ್ಲಿ ಯಾವುದೇ ಲೀತಿಯ ತೊಂದರೆ ನೀಡದಂತೆ ಸೂಕ್ತ ತಿಳುವಳಿಕೆ ನೀಡಿ ಮುಜ್ಜೀಕೆಯನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ. ಸದರಿ ಜಾಗವು ಸರ್ಕಾರಿ ಘಡೆ ಜಾಗವಾಗಿರುತ್ತದೆ.”

4. Not being satisfied with this undertaking, petitioners have pursued their grievance before the trial Court contending that on account of Station House Officer having sought for demarcation and identification of 2 acres 10 guntas of land, after direction came to be issued by Court to the Station House Officer, petitioners have prayed for a direction to Station House Officer to implement the order of the trial Court in letter and spirit. However, this prayer has not been accepted by the trial Court and it has opined that police has extended protection to the plaintiffs as indicated in the report submitted by jurisdictional Station House Officer and on this ground, it has refused to issue further direction.

5. As observed hereinabove when plaintiff No.4 is entitled to continue in possession of suit schedule property and undertaking having been obtained from defendants by Station House Officer that they would not disturb the possession of plaintiff No.4 and children studying in the school, question of giving further

direction by trial Court does not arise. Hence, I do not find any error having been committed by the trial court. However, it would be needless to observe that in the event of any attempts being made by defendants either to demolish the building located in the suit schedule premises or disturb the children studying in the school or the staff, plaintiffs would be at liberty to file appropriate application seeking for appropriate protection before the trial Court.

With these observations writ petition stands dismissed.

**SD/-
JUDGE**

DR