

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2015

BEFORE

THE HON'BLE MR.JUSTICE ARAVIND KUMAR

W.P.NO. 51198/2015 (GM-CPC)

BETWEEN:

P.R. NARAYANACHAR
AGED ABOUT 73 YEARS
S/O LATE P.N. RAMACHANDRA RAO
MARUTHI RICE MILL
NADSAL VILLAGE
POST PADUBIDRI-574 111
UDUPI TALUK AND DIST.,

... PETITIONER

(BY SRI.SUDESH KUMAR ACHARYA V, ADVOCATE)

AND:

1. P. MADHAVA RAO
AGED ABOUT 58 YEARS
2. P. SEETHARAMA RAO
AGED ABOUT 60 YEARS
3. PRAKASH RAO
AGED ABOUT 56 YEARS

ALL ARE CHILDREN OF
LATE B.S. GOVINDA RAO
C/O GULABI AMMA
BALAPPA HOUSE,
NEAR BRAHMASTHANA
POST PADUBIDRI-574 111
UDUPI TALUK & DIST.,

4. PADMANABHA RAO
AGED ABOUT 78 YEARS

S/O NARAYANA RAO
SRI MARUTHI PRASAD
KOLUVAIL, HALENAGADI,
MANGALORE TALUK
D.K. DISTRICT-572 416.

... RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 3.11.2015 PASSED IN I.A.NO.7 IN O.S.NO.121/2007 ON THE FILE OF THE COURT OF THE PRINCIPAL CIVIL JUDGE AND JMFC UDUPI VIDE ANNEXURE-A.

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

ORDER

First defendant in O.S.No.121/2002 is questioning the order dated 03.11.2015 passed by Principal Civil Judge & JMFC, Udupi - Annexure-A whereunder I.A.No.7 filed under Order 26 Rule 9 CPC to appoint a Court Commissioner to hold local inspection of plaint 'A' Schedule Property has been rejected.

2. Sri S.K.Acharya, learned Advocate appearing for petitioner contends that writ petitioner is entitled to prove all improvements with regard to permanent structures put up by him in the suit property which was with the consent of landlord and as such, application

for conducting local inspection by appointment of Court Commissioner could not have been rejected.

3. Impugned order would clearly indicate that there is no agreement between respondents and petitioner which enable the writ petitioner to seek from respondents-landlord compensation for any improvements, structures if put up, alterations being made or improved over the land in question. On the other hand, respondents-landlord in their objections to the application filed for appointment of a Court Commissioner has stated that he would have no objection for all the structures being removed by petitioner (first defendant) at the time of vacating the premises/land. As such, trial Court has rightly rejected application for appointment of Court Commissioner. I find no error from the order passed by trial Court. No grounds are made out. Accordingly, writ petition stands dismissed.

**SD/-
JUDGE**

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