

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23<sup>RD</sup> DAY OF JUNE 2022

BEFORE

THE HON'BLE MR.JUSTICE ASHOK S. KINAGI

**WRIT PETITION No.30730 OF 2018 (GM-CPC)**

BETWEEN:

HANUMANTHAREDDY  
S/O LATE SANNA THIMMAIAH,  
AGED ABOUT 41 YEARS  
AGRICULTURIST,  
R/O ROPPA VILLAGE,  
ASHOKASIDDAPURA POST,  
DEVASAMUDRA HOBLI,  
MOLAKALMURU TALUK-577535,  
CHITRADURGA DISTRICT.

...PETITIONER

(BY SRI. R SHASHIDHARA, ADVOCATE )

AND:

- 1 . ESHWARAPPA  
S/O MARISWAMY,  
AGED ABOUT 51 YEARS.
- 2 . MALLESHAPPA  
S/O MARISWAMY,  
AGED ABOUT 49 YEARS
- 3 . SHARANAPPA  
S/O MARISWAMY,  
AGED ABOUT 46 YEARS

4 . THIMMAPPA  
S/O GULEPPA,  
AGED ABOUT 46 YEARS

ALL ARE AGRICULTURIST,  
R/O HOSAKOTE VILLAGE,  
ASHOKA SIDDAPURA POST,  
DEVASAMUDRA HOBLI,  
MOLAKALMURU TALUK-577 535,  
CHITRADURGA DISTRICT.

....RESPONDENTS

(BY SRI. K. NAGARAJA, ADVOCATE)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER PASSED BY THE CIVIL JUDGE AND JMFC AT MOLAKALMURU IN O.S.NO.117/2017 ON IA NO.II AND IA-III DATED 8.8.2017 VIDE ANNEXURE-G AND ORDER PASSED BY THE SENIOR CIVIL JUDGE AND JMFC AT CHALLAKERE IN M.A.NO.26/2017 DATED 13.4.2018 VIDE ANNEXURE-H TO THIS WRIT PETITION.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner/plaintiff aggrieved by the order dated 8.8.2017 passed in O.S.No.117/2017 by the Civil Judge and JMFC, Molakalmuru and the order dated 13.4.2018 passed in M.A.No.26/2017 by the Senior Civil Judge and JMFC, Challakere has filed the present writ petition.

2. Brief facts leading rise to filing of this petition are as under:

The petitioner filed a suit for declaration and permanent injunction against the respondents contending that he is the owner and possessor of the agricultural land bearing Sy.No.196/2B measuring 7.00 acres situated at Siddapura Village, Devasandra Hobli, Molakalmuru Taluk and contended that he has acquired the suit property after the death of his father and he is in possession of the suit schedule property

and that the respondents are trying to interfere with the peaceful possession and enjoyment of the suit schedule property.

Respondents filed written statement denying the averments made in the plaint.

The petitioner filed application-I.A.II seeking an order of temporary injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the property. The Trial Court granted an ad-interim exparte order of temporary injunction.

Respondents filed an application-I.A.III for vacating the interim order.

The Trial Court after hearing the parties rejected the application-I.A.II filed by the petitioner and allowed the application filed by the respondents for vacating the exparte order of temporary injunction.

The petitioner aggrieved by the order passed on I.A.s II and III preferred appeal in M.A.No.27/2007. The Appellate Court after considering the material on record, dismissed the appeal. Hence, this writ petition.

3. Heard learned counsel for petitioner and learned counsel for respondents.

4. Learned counsel for the petitioner submits that courts below have not properly considered the material placed on record. He submits that the courts below have committed an error in recording a finding that the petitioner is not in possession of the suit schedule property. He further submits that the orders passed by the courts below are arbitrary, erroneous and perverse and hence, prays to allow the writ petition.

5. Per contra, learned counsel for the respondents supports the impugned order.

6. Perused the records and considered the submissions made by learned counsel for the parties.

7. The petitioner as well as respondents are claiming title over the suit schedule property. The Trial Court has rightly observed that there is a serious dispute with regard to the title of the suit schedule property and mere production of revenue records is not enough to prove valid possession and right over the suit schedule property. Further, the petitioner in addition to declaratory relief is also claiming permanent injunction based on the revenue records as on the date of suit. Both the courts have concurrently recorded finding of facts against the petitioner that he is not in possession of the suit schedule property.

That in view of the law laid down by the Hon'ble Apex Court in **RADHEY SHYAM & ANR. VS. CHHABI NATH & ORS. [(2015) 5 SCC 423]**, I do not find any reason to interfere with the impugned orders.

8. In view of the above discussion I decline to interfere with the impugned orders.

Accordingly, the writ petition is dismissed.

SD/-  
JUDGE

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