



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

WRIT PETITION NO. 6719 OF 2023 (GM-CPC)

Between:

Sri N.V.Huchegowda
S/o. Late Sri Venkatappa,
Aged about 50 years,
R/at Narenahalli Village,
C.S.Pura Hobli, Gubbi Taluk,
Tumkuru District-572216

...Petitioner

(By Sri G.B.Nandish Gowda G.B., Advocate)

And:

1. Smt. Sannahuchamma
W/o. Late Sri Venkatappa,
Aged about 77 years,
R/o Hosuru Village,
Hamlet of Shettibidu,
Yadiyuru Hobli, Kunigal Taluk,
Tumkur District-572142.
2. Sri Srinivasa Murthy H.V.,
S/o. Late Sri Venkatappa,
Aged about 53 years,
R/at No.185, 3rd Cross,
3rd Stage, Manjunathanagar,
Bengaluru-560010.
3. Sri Venkatappa
S/o. Late Sri Venkatappa,
Aged about 50 years,
R/o Hosuru Village,
Hamlet of Shettibidu,





Yadiyuru Hobli, Kunigal Taluk,
Tumkur District-572142.

4. Sri Govindgowda
S/o. Late Sri Nanjaiah,
Aged about 73 years,
R/at No.1559, 25th Main Road,
5th Cross, 2nd Stage,
BTM Layout, Bengaluru-560076
5. Sri Srinivasamurthy N.,
S/o. Late Sri Nanjaiah,
Aged about 68 years,
R/at No.146, 10th Cross,
2nd Main, Govindarajanagar,
Bengaluru-560040

...Respondents

This Writ Petition is filed under Article 227 of the Constitution of India, praying to quash the order dated 17.12.202 passed by the court of the Additional Senior Civil Judge and JMFC, Gubbi in M.A.No.8/2021 vide Annexure-B by confirming the order dated 20.09.2020 passed by the court of Additional Civil Judge and JMFC at Gubbi on I.A.No.1 in O.S. No.346/2020 vide Annexure-A and consequently allow the I.A. No.1 filed by the plaintiff under Order 39 Rule 1 and 2 r/w section 151 of CPC.

This Writ Petition coming on for **preliminary hearing**, this day, the court made the following:



ORDER

Heard Sri G.B.Nandish Gowda, learned counsel for the petitioner.

2. The petitioner has assailed the order dated 17.12.2022 passed in M.A.No.8/2021 on the file of the Additional Senior Civil Judge and JMFC, Gubbi.

3. The petitioner is the plaintiff in O.S.No.346/2020 on the file of the Additional Civil Judge and JMFC, Gubbi. The suit is for permanent injunction. He claims to be in possession of the suit property measuring 3-00 acres including 0-05 guntas of kharab situated at Naranahalli village, C.S.Pura Hobli, Gubbi Taluk, Tumakuru District.

4. The defendants' contentions appear to be that the plaintiff's grandfather sold the suit property in favour of father of defendants 2 and 3, by executing a sale deed dated 31.03.1955. The



plaintiff's assertion is that the revenue entries are in his name and therefore he asserts his possession.

5. The finding of the trial court is that the defendants' possession is forthcoming in the land and therefore the trial court came to conclusion that there was no prima-facie case for grant of temporary injunction in favour of the plaintiff. This resulted in rejection of the application filed by the plaintiff for temporary injunction. Consequent to rejection of the application, the plaintiff filed appeal to the court of Additional Senior Civil Judge, Gubbi, which also after re-assessing the materials came to the same conclusion that the trial court has taken.

6. The writ petition is not an appeal. All that can be examined in the writ petition is whether the courts below have applied its' mind to



arrive at conclusions based on the settled principles governing grant of temporary injunction.

7. A perusal of the order of the trial court as also of the appellate court shows that the courts below have assessed the materials and recorded a finding that possession is with the defendants. Discretion appears to have been exercised properly. Question of interference in the impugned order does not arise. Therefore writ petition is ***dismissed***.

**Sd/-
JUDGE**

KMV
List No.: 1 Sl No.: 10