

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 26TH DAY OF JUNE, 2023****BEFORE****THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR****WRIT PETITION NO. 7901 OF 2023 (GM-CPC)****BETWEEN:**

SRI.RAMAKRISHNA K.S.
SON OF LATE SHAMBHAIAH
AGED ABOUT 57 YEARS,
R/AT KANNAMANGALA VILLAGE
AND POST, DEVNAHALLI TALUK
BENGALURU RURAL DISTRICT-562 110.

...PETITIONER

(BY SRI. SOMASHEKARA K M.,ADVOCATE)

AND:

1. SRI.VENKATESHA B.N.
S/O NOT KNOWN
AGED ABOUT 60 YEARS
2. SMT. SOUGHAGYA
W/O VENKATESHA
AGED ABOUT 53 YEARS
3. SRI. PRASHANTH KUMAR V.G.
S/O VENKATESHA V.H.
AGED ABOUT 26 YEARS

ALL ARE R/AT 3706, WARD NO.1
SOMESHWARA EXTENSION, DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT-561 203.

...RESPONDENTS

(BY SRI. G.B. NANDISH GOWDA, ADVOCATE)

THIS W.P IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER 22.07.2022 PASSED BY THE ADDL. SENIOR CIVIL JUDGE AND JMFC, DODDABALLAPURA ON IA NO.II IN OS NO.366 OF 2022 AND ORDER DTD 08.02.2023 PASSED BY THE 4TH ADDL. DIST AND SESSIONS JUDGE, DODDABALLAPUR, BENGALURU RURAL DIST, IN MA NO..10010 OF 2022 (ANNX-E AND G) AND CONSEQUENTIALLY, ALLOW THE APPLICATION FILED BY THE PLAINTIFF UNDER ORDER 39 RULE 1 AND 2 CPC VIDE IA NO.II IN OS NO.366 OF 2022 (ANNX-B).





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

ORDER

This petition by the plaintiff in O.S.No.366/2022 on the file of the Addl. Senior Civil Judge, Doddaballapur (for short "the Trial Court") is directed against the impugned order dated 22.07.2022 passed on I.A.No.2, whereby the Trial Court rejected the prayer for temporary injunction, which was confirmed by the IV Additional District and Sessions Judge, Doddaballapura (for short "the First appellate Court") in M.A.No.10010/2022.

2. Heard learned counsel for the petitioner, learned counsel for respondent Nos.1 to 3 and perused the material on record.

3. Though several contentions have been urged by both sides in support of their respective claims, since several disputed questions of fact and law that arises for consideration in the suit as well as in the present petition, which would necessarily have to be decided only after a full fledged trial by the Trial Court, I deem it just and appropriate to dispose of this petition by modifying the impugned orders passed by both the Trial Court and First Appellate Court, by directing that any construction put up/to be put up on the



suit schedule property by the respondents-defendants would be subject to the final outcome of the suit and that the respondents shall not claim any equities in this regard. The Trial Court is directed to dispose of the suit as expeditiously as possible, without being influenced by the findings and observations recorded in the impugned orders. All rival contentions are kept open and no opinion is expressed on the same.

4. With the aforesaid observations and directions, the writ petition stands disposed of.

Sd/-
JUDGE

BMC
List No.: 1 SI No.: 120