

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 20<sup>TH</sup> DAY OF JULY, 2017

BEFORE

THE HON'BLE MR. JUSTICE G. NARENDAR

**WRIT PETITION NO.206010/2014 (GM-CPC)**

BETWEEN

THE CHIEF OFFICER

TMC LINGASUGUR

DIST: RAICHUR-584101.

... PETITIONER

(BY SRI.CHAITANYANKUMAR CHANDRIKI, ADVOCATE)

AND

1. K.K. VISHWANATH  
S/O VITHOBANNA SHETTY  
AGE: 57 YEARS OCC: ADVOCATE  
R/O: LINGASUGUR  
DIST: RAICHUR-584101.
2. THE DEPUTY COMMISSIONER  
RAICHUR-584101.
3. THE ASST. COMMISSIONER  
SUB DIVISION LINGASUGUR  
DIST: RAICHUR-584101.
4. THE TASILDAR  
LINGASUGUR  
TALUKA LINGASUGUR  
DIST: RAICHUR-584101.

5. THE ASST. EXECUTIVE  
ENGINEER PWD  
LINGASUGUR-584101. ...RESPONDENTS

(BY SRI.R.S.SIDDAPURKAR, ADVOCATE FOR R1  
BY SRI.A.SYED HABEEB, AGA FOR R2 TO 5)

THIS WRIT PETITION IS FILED UNDER ARTICLES  
226 AND 227 OF THE CONSTITUTION OF INDIA  
PRAYING TO ISSUE A WRIT IN THE NATURE OF  
CERTIORARI, THEREBY QUASHING THE IMPUGNED  
ORDER DATED 30.08.2013 PASSED BY THE CIVIL  
JUDGE AND JMFC AT LINGASGUR, IN  
O.S.NO.26/2011 ON I.A.NO.IV AS AT ANNEXURE-J TO  
THE WRIT PETITION AND ALSO QUASH THE ORDER  
DATED 03.09.2014 PASSED BY THE LEARNED  
SENIOR CIVIL JUDGE AT LINGASGUR IN MISC  
APPEAL NO.10/2013 AS AT ANNEXURE-K TO THE  
WRIT AND ETC.,

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

**ORDER**

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

2. The parties herein are referred to as per their rankings before the trial Court.

3. The petitioner before this Court is the 5<sup>th</sup> defendant before the trial Court in O.S.No.26/2011, wherein the plaintiff has sought for the following reliefs;

- i. That, a permanent injunction order be granted against the defendants No.1 to 5, their men, subordinates, agents, assigns, etc., restraining them from demolishing or interfering, in the peaceful possession and enjoyment of the suit property.
- ii. That, the costs of the suit be awarded. Any other relief for which the plaintiff is entitled and the Hon'ble Court deems just and proper under the present circumstances of the case may also be granted in the interest of justice and equity."

4. The suit is one for permanent injunction to restrain the defendants from interfering with the peaceful possession and carrying out the demolition activities on the suit schedule property and was instituted on 05.02.2011. Therein, the plaintiff had preferred an application under Order 39 Rules 1 and 2 r/w Section 151 of CPC seeking for an order of temporary injunction and the said application came to be allowed. Aggrieved by the same, the petitioner/5<sup>th</sup> defendant has preferred an appeal before the Prl. Civil Judge at Lingasgur. In the said appeal, the order passed by the trial Court dated 05.03.2011 came to be reversed. Thereafter, the respondent had again preferred a similar application under Order 39 Rule 1 and 2 r/w Section 151 of CPC dated 20.06.2013. That objections came to be filed to the said application. The Court after hearing was pleased to allow the application restraining the defendants from carrying out any demolition activities over and above the suit schedule property.

5. It is seen that aggrieved by the same, an appeal came to be preferred before the Senior Civil Judge and JMFC, Lingasugur and the order of granting temporary injunction came to be confirmed by the Appellate Court also. It is also seen that the relief that is sought for is one for permanent injunction to injunct the petitioner herein and for declaring or interfering with the peaceful possession and enjoyment of the suit schedule property. The learned counsel for the parties are unable to place on record as to whether the said suit is still survive for consideration.

6. In the light of the relief sought for in the suit, this Court is of the considered opinion that the ends of justice could be met if the said suit could be disposed off expeditiously. The delay in pendency of the present writ petition ought to deter the trial Court to take up the matter and dispose off the same on merits.

7. Hence, this Court is of the considered opinion that the ends of justice would be met if the trial Court is directed to hear and dispose off the suit in O.S.No.26/2011 as expeditiously as possible, at any rate, within an outer limit of three months from today. The trial Court shall positively hear and dispose off the suit by 31.10.2017.

Hence, the writ petition stands disposed off in the above terms.

**Sd/-  
JUDGE**

SRT/KJJ