**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 24TH DAY OF JANUARY, 2025**

**BEFORE**

**THE HON'BLE MR JUSTICE R.NATARAJ**

**WRIT PETITION NO.202745 OF 2024 (GM-CPC)**

**BETWEEN:**

1. RAGHANNA S/O LATE SOMAPPA,
   AGED ABOUT 57 YEARS, OCC: AGRICULTURE,
   R/O NELHAL, TQ: AND DIST: RAICHUR.

2. SHIVAPPA S/O LATE SOMAPPA,
   AGED ABOUT 52 YEARS, OCC: AGRICULTURE,
   R/O NELHAL, TQ: AND DIST: RAICHUR.

...PETITIONERS

(BY SRI SANJEEVKUMAR C. PATIL, ADVOCATE)

**AND:**

Digitally signed by SACHIN
Location: High Court Of Karnataka

1. SMT. TANGAMMA W/O SHARANAPPA,
   AGE: 57 YEARS,
   OCC: AGRICULTURE AND HOUSEHOLD,
   R/O NELHAL, TQ: AND DIST: RAICHUR-586101.

2. SMT. GOURAMMA W/O NAGRAJ,
   AGE: 33 YEARS, OCC: HOUSEHOLD,
   R/O H.NO.72/1, OLD TOWN,
   MANTRALAYAM, MANDALAM,
   MANTRALAYAM, DIST. KURNOOL (AP).

3. SMT. KASTURI W/O NAGRAJ,
   AGE: 30 YEARS, OCC: HOUSEHOLD,
   R/O EARAPURA VILLAGE,

TQ: AND DIST: RAICHUR-586101.

4. SHARANAPPA S/O LATE SOMAPPA,
AGE: 62 YEARS, OCC: AGRICULTURE,
R/O NELHAL VILLAGE,
TQ: AND DIST: RAICHUR-586101.

…RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT, DIRECTION OR ORDER IN THE NATURE OF CERTIORARI BY QUASHING ANNEXURE-E DATED 09-08-2023 PASSED BY THE ADDITIONAL CIVIL JUDGE AND JMFC-III, RAICHUR, IN OS NO.282/2022 AND ISSUE A WRIT, DIRECTION OR ORDER IN THE NATURE OF CERTIORARI BY QUASHING ANNEXURE-G DATED 09-07-2024 PASSED BY THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM, RAICHUR IN M.A.NO.22/2023.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE R.NATARAJ

**ORAL ORDER**

Defendant Nos.2 and 3 in O.S.No.282/2022 on the file of the Additional Civil Judge and JMFC-III, Raichur are before this Court challenging an order dated 09.08.2023, by which, the Trial Court granted an interim injunction restraining them from interfering with the possession of the plaintiffs over the suit 'A'

schedule property. The defendants are also aggrieved by an order passed by the Principal Senior Civil Judge and JMFC, Raichur in M.A.No.22/2023, by which, it confirmed the order of injunction.

2. The suit in O.S.No.282/2022 was filed for perpetual injunction in respect of a land bearing Sy.No.149/*/4 and a hut measuring 2 guntas in Sy.No.213 of Nelhal village, Raichur Taluk and District. The plaintiffs claimed that plaintiff No.1 was the wife of defendant No.1 and that plaintiff Nos.2 and 3 are their children. Plaintiff No.1 claimed that she was thrown out of the family in the year 1994 and defendant No.1 contracted another marriage. Thereafter, a Panchayat was held whereat the suit properties were made over for the maintenance of plaintiff No.1 and her children i.e., plaintiff Nos.2 and 3. The plaintiffs claimed that they were in possession of the suit properties from the year 1994 and that the revenue documents were transferred to their names. They alleged that the defendants tried to dispossess them from the suit properties and thus sought for perpetual injunction. Along with the suit, they filed an application for interim injunction to restrain the defendants from interfering with their possession.

3. The suit was contested by the defendants, who *inter alia* contended that the suit properties were the ancestral properties of the family and that they were in possession of the suit properties. The application for injunction was also opposed on similar lines.

4. The Trial Court after considering the material on record held that the plaintiffs are entitled for an order of interim injunction, as the revenue records of the suit properties stood in the name of plaintiff No.1 as on the date of the suit and therefore it held that the plaintiffs had made out a *prima facie* case that plaintiff No.1 was in possession of the suit properties and hence allowed the application in terms of the order dated 09.08.2023. Being aggrieved by the said order, defendant Nos.2 and 3 filed M.A.No.22/2023. The Appellate Court secured the records of the Trial Court and after hearing the parties, held that defendant Nos.2 and 3 did not dispute that plaintiff No.1 was married to defendant No.1 and plaintiff Nos.2 and 3 were their children. It also perused the revenue mutation proceedings, which showed that the name of plaintiff No.1 was entered in the revenue records and the RTC for the year 2020-21 stood in the name of plaintiff No.1. Consequently,

it held that the plaintiffs had made out a *prima facie* case for grant of injunction and hence passed the impugned order dated 09.07.2024, dismissing the appeal and confirming the order of injunction. Being aggrieved by the said order, defendant Nos.2 and 3 are before this Court in this writ petition.

5. The learned counsel for the defendants submitted that the suit properties were ancestral properties of the family and therefore the plaintiffs were not entitled to seek for perpetual injunction to restrain the defendants from interfering with their possession, as the defendants are also deemed to be in possession of the suit properties. He contends that the question whether the suit properties were made over to plaintiff No.1 for her maintenance is a question of fact which has to be adjudicated after full fledged trial and therefore the Trial Court could not have granted interim injunction, which had the effect of dispossessing the defendants from the suit properties.

6. A perusal of the impugned order passed by the Trial Court and the Appellate Court shows that both the Courts held that the name of plaintiff No.1 was entered in the revenue records pursuant to the acceptance of the mutation and as on

the date of the filing of the suit, the name of plaintiff No.1 appeared in the RTC. It therefore held that the claim of plaintiff No.1 that the suit properties were made over to her towards her maintenance at the Panchayat held in the year 1994 is probable and a triable case was made out by plaintiff No.1. The Trial Court therefore, in order to maintain *status quo* of the properties pending disposal of the suit had directed the defendants not to interfere with the possession of the plaintiffs. There is no error committed by both the Courts in granting an order of injunction warranting interference in this writ petition. Hence the writ petition is ***dismissed***.

**Sd/-**
**(R.NATARAJ)**
**JUDGE**

RSP
List No.: 1 Sl No.: 36
CT:SI