

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 28th DAY OF FEBRUARY 2022

BEFORE

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

WRIT PETITION No.101222/2016
c/w WRIT PETITION No.114448/2015 (GM-CPC)

IN W.P. NO.101222/2016
BETWEEN:

- 1 . ALTAFAHAMAD S/O MAHAMMADJAFAR BEPARI,
AGED ABOUT 40 YEARS,
OCC: BUSINESS,
R/O: SUKRAWAR PETH,
SAVANUR, TQ: SAVANUR,
DIST: HAVERI.
- 2 . BABAHUSEN, S/O ISMAILSAB BEPARI,
AGED ABOUT 43 YEARS,
OCC: BUSINESS,
R/O: SUKRAWAR PETH, SAVANUR,
TQ: SAVANUR, DIST: HAVERI.
- 3 . ABDULRAZAK S/O KUTUBIDDIN BEPARI,
AGED ABOUT 28 YEARS,OCC: BUSINESS,
R/O: SUKRAWAR PETH, SAVANUR,
TQ: SAVANUR, DIST: HAVERI.

.. PETITIONERS

(BY SRI. RAJASHEKHAR BURJI, ADV.)

AND:

- 1 . TOWN MUNICIPAL COUNCIL SAVANUR,
REP. BY ITS CHIEF OFFICER,
TMC SAVANUR, TQ: SAVANUR,
DIST: HAVERI.

2. ANWAR S/O HAJARESAB DARGAWALE,
AGED ABOUT 43 YEARS, OCC: AGRICULTURE,
R/O SAVANUR, TQ: SAVANUR, DIST: HAVERI.

.. RESPONDENTS

(BY SRI. HARISH S. MAIGUR, ADV. FOR RESPONDENT NO.2.
RESPONDENT NO.1 SERVED AND UNREPRESENTED.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER PASSED BY THE ADDITIONAL SENIOR CIVIL JUDGE, HAVERI IN MA.NO.07/2015 DATED:24.11.2015, PRODUCED AT ANNEXURE-A.

IN W.P. NO.114448/2015

BETWEEN:

THE TOWN MUNICIPAL COUNCIL SAVANUR
REP BY ITS CHIEF OFFICER
T.M.C, SAVANUR, R/O:SAVANUR
TQ:SAVANUR, DSIT:HAVERI

.. PETITIONER

(BY SRI. B.M. PATIL, ADV.)

AND:

1. SHRI.ANWAR S/O HAJARESAB DARAGAWALE
AGE:43 YEARS, OCC:AGRL
R/O:SAVANUR, TQ:SAVANUR
DIST:HAVERI,
2. SHRI.ALTAFAHAMAD
S/O MAHAMMADJAFAR BEPARI
AGE:40 YEARS, OCC:BUSINESS
R/O:SAVANUR, SUKRAWAR PETH,
TQ:SAVANUR, DIST:HAVERI
3. SHRI.BABAHUSEN S/O ISMAILSAB BEPARI
AGE:43 YEARS, OCC:BUSINESS
R/O:SAVANUR, SUKRAWAR PETH,
TQ:SAVANUR, DIST:HAVERI
4. SHRI.ABDULRAZAK S/O KUTUBUDDIN BEPARI
AGE:28 YEARS, OCC:BUSINESS

R/O:SAVANUR, SUKRAWAR PETH,
TQ:SAVANUR, DIST:HAVERI

.. RESPONDENTS

(BY SRI. HARISH MAIGUR, AD. FOR R1.
RESPONDENT NO.2 SERVED.
RESPONDENT NOS.3 AND 4 NOT SERVED. .)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER PASSED BY THE ADDITIONAL SENIOR CIVIL JUDGE, HAVERI IN MISCELLANEOUS APPEAL NO.07/2015 DATED:24.11.2015, PRODUCED AT VIDE ANNEXURE-H BE PASSED BY ALLOWING THE WRIT PETITION.

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

ORDER

In these writ petitions, the petitioners have challenged the order passed by the learned Additional Senior Civil Judge, Haveri, in Miscellaneous Appeal No.7/2015 dated 24.11.2015 whereby the appeal filed by the plaintiffs under Order XLIII Rule 1 of the Code of Civil Procedure, 1908, has been allowed granting temporary injunction.

2. The respondent No.2/plaintiff and another had filed a suit in O.S. No.305/2014 for permanent injunction. Along with the plaint, they had filed I.A.1 under Order XXXIX Rules 1 and 2 of CPC. The said application has been rejected by the learned Civil Judge and JMFC, Savanur by

order dated 03.06.2015. Being aggrieved by the same, the plaintiff has filed M.A. No.7/2015 before the learned Additional Senior Civil Judge, Haveri (hereinafter for brevity referred to as 'appellate Court'). The appellate Court by order dated 24.11.2015 has allowed the appeal granting temporary injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs over the suit schedule property till disposal of the suit. Being aggrieved by the same, the defendants have filed these writ petitions.

3. This Court has issued notice. There is no interim order granted by this Court in these writ petitions.

4. The petitioners have suffered an order passed by the appellate Court from the year 2015. Under the circumstance and in the interest of justice, these writ petitions can be disposed off.

5. Accordingly, the writ petitions are disposed off. The learned Civil Judge and JMFC, Savanur, is directed to dispose of O.S. No.305/2014 as expeditiously as possible

not later than six months from the date of receipt of a certified copy of this order and in accordance with law without being influenced by the observations made by the appellate Court in M.A. No.7/2015.

**Sd/-
JUDGE**

Kmv