

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MAY, 2022

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.6937 OF 2022(GM-CPC)

BETWEEN:

M/S AMRUTH HOMES PVT LTD
COMPANY INCORPORATED UNDER COMPANY'S ACT
HAVING ITS OFFICE AT
NO.17 ZONE-H, MAHARANA PRATHAP NAGAR
BHOPAL, MADHYA PRADESH-462011
REPRESENTED BY ITS AUTHORISED SIGNATORY
MR HARINDRAPAL SINGH ANAND

...PETITIONER

(BY SRI.A MADHUSUDHANA RAO, ADVOCATE)

AND:

1. SRI NARAYANAPPA
S/O SRI MADDURAPPA
AGED ABOUT 56 YEARS

2. SRI VENAKTESH
S/O SRI MADDURAPPA
AGED ABOUT 53 YEARS

3. SMT MANJULA
D/O SRI MADDURAPPA
AGED ABOUT 45 YEARS

RESPONDENTS 1 TO 3 ARE
R/AT ANANTHANAGAR, KAMMASANDRA VILLAGE
ELECTRONIC CITY POST,
D NO.1001/14, 3RD CROSS, ATTIBELE HOBLI
ANEKAL TALUK, BANGALORE-560100.

4. SMT AKKAYAMMA @ MUNI AKKAYAMMA
D/O LATE YELLAGA AND KAVERAMMA
AGED ABOUT 81 YEARS

5. SRI KRISHNAPPA
S/O LATE MADDURAPPA
AGED ABOUT 59 YEARS

RESPONDENTS 4 AND 5 ARE
R/AT ANANTHANAGAR, KAMMASANDRA VILLAGE
ELECTRONIC CITY POST,
D NO.1001/14, 3RD CROSS, ATTIBELE HOBLI
ANEKAL TALUK, BANGALORE-560100.

6. SMT MUNITHAYAMMA
AGED ABOUT 33 YEARS
W/O LATE C H GOVINDAPPA
AGED ABOUT 62 YEARS

7. SMT PREMA
D/O LATE C H GOVINDAPPA
AGED ABOUT 41 YEARS

8. SMT ROOPA
D/O LATE C H GOVINDAPPA
AGED ABOUT 38 YEARS

9. SMT LATHA
D/O LATE C H GOVINDAPPA
AGED ABOUT 35 YEARS

10. SMT GEETHA
D/O LATE C H GOVINDAPPA

AGED ABOUT 32 YEARS

11. SMT NAGAMMA
W/O LATE YELLAPPA
AGED ABOUT 81 YEARS

12. SMT MUNIYELLAPPA
W/O ANNAIYAPPA
AGED ABOUT 78 YEARS

RESPONDENTS 6 TO 12 ARE ALL
RESIDING AT CHIKKANAGAMANGALA VILLAGE
HUSKUR POST, SARJAPURA HOBLI
ANEKAL TALUK, BANGALORE DISTRICT-560100.

...RESPONDENTS

THIS PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTING THE LEARNED SR. CIVIL JUDGE AND JMFC, ANEKAL TO PASS ORDER ON IAS1 AND 2 IN OS NO.831/2016 FILED BY RESPONDENT 1 TO 3 AGAINST THE PETITIONER AND OTHERS, WITHIN A PERIOD TO BE PRESCRIBED BY THIS HONBLE COURT, ALLOW THIS WRIT PETITION WITH COSTS AND GRANT SUCH OTHER RELIEFS AS THIS HONBLE COURT DEEMS FIT TO GRANT IN THE CIRCUMSTANCE OF THE CASE.

THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

As only a mandamus is sought, the writ petition is taken up for disposal without notifying the

respondent as no prejudice would be caused to respondent.

2. The captioned writ petition is filed seeking seeking a writ of mandamus to direct the learned Judge to decide the application filed in I.A.No.1 filed under Order XXXIX Rule 1 and 2 of CPC in O.S.No.831/2016.

3. The plaintiffs filed a suit for partition and separate possession. The learned counsel for the present petitioner-defendant No.11 submits that the parties to the suit have advanced their arguments and have rather concluded their arguments on 20.3.2021. The grievance of the petitioner is that though the parties have concluded their arguments on I.A.No.1 way back in March 2021, the learned Judge has not decided the same. The grievance of the petitioner is that the learned Judge instead of passing orders on

the said application is extending the interim order from time to time.

4. Perused the order sheet and examined the material on record. The learned Judge cannot go on extending interim order without deciding I.A.No.1 as held by the Apex Court in the case of ***Asian Resurfacing of Road Agency .vs. Central Bureau of Investigation***¹. In the light of the principles laid down by the Apex Court, this Court is of the view that mandamus issues in the present case on hand. Though this Court has to be cautious and reluctant in issuing mandamus to the Courts below, this is a fit case where mandamus issues as the learned Judge is extending interim order in contravention of the directions issued by the Apex Court in the case cited supra.

¹ AIR 2018 SC 2039

Accordingly, the writ petition is allowed. The learned Judge of the Trial Court is directed to decide the application filed in I.A.No.1 filed under Order XXXIX Rules 1 and 2 of CPC in O.S.No.831/2016 within four weeks from the date of receipt of a copy of this order.

Sd/-
JUDGE

*alb/-