



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 31<sup>ST</sup> DAY OF OCTOBER, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE S.G.PANDIT**

**WRIT PETITION NO. 23683 OF 2023 (GM-CPC)**

**BETWEEN:**

SMT. NAJUM UNNISA TABASSUM  
D/O LATE SRI ABDUL SATTAR SAB,  
AGED ABOUT 57 YEARS,  
R/AT NO.178, AMEER MOHALLA,  
NEAR METRO MOTOR WORKS,  
HASSAN-573201.

...PETITIONER

(BY SRI. R B SADASIVAPPA., ADV.)

**AND:**

SMT. FAHAMIDA NIGAR BANU  
W/O LATE SRI MOHAMED USMAN,  
AGED ABOUT 64 YEARS,  
R/O NO.178, AMEER MOHALLA,  
C/O HABEEB JCB, QASWA MANZIL,  
GOOD LUCK ENTERPRISES,  
NEAR GOVT. URDU PRIMARY SCHOOL,  
OPP EDGHA GATE NO.2,  
MEHABOOB NAGAR, HASSAN-573201.

...RESPONDENT

THIS PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO 1) QUASH THE IMPUGNED ORDER DATED 26/08/2023 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, SAKLESH PURA ON I.A. NO.3 IN OS NO.47/2022 VIDE ANNEXURE-A AND 2) DIRECT THE RESPONDENT TO DEPOSIT THE RENT RECEIVED BY HER FROM THE TENANTS WHO ARE IN OCCUPATION OF THE SUIT SCHEDULE PROPERTY.

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



**ORDER**

Petitioner, plaintiff in O.S.No.47/2022 on the file of the Senior Civil Judge and JMFC., at Hassan (for short, 'Trial Court') is before this Court questioning order dated 26.08.2023 rejecting I.A.No.3 filed under Section 151 of CPC seeking direction to defendant No.3 to deposit rents of the suit schedule premises before the Court during pendency of the suit.

2. Heard the learned counsel Sri.R.B.Sadasivappa for petitioner/plaintiff. Perused the writ petition papers.

3. The suit is one for partition of the suit schedule property by metes and bounds. Learned counsel for the petitioner/plaintiff would submit that respondents/defendants before the Trial Court admitted the relationship and also the share in the schedule property. When such being the case, petitioner/plaintiff filed I.A.No.3 under Section 151 of CPC praying for a direction to defendant No.3 to deposit rents received by her from schedule premises. Learned counsel would submit that Trial Court committed an error in rejecting the said application under impugned order. Learned counsel



would submit that when the relationship is admitted and when defendants admit that plaintiff is entitled for share, Trial Court ought to have directed defendants to deposit rents before the Trial Court.

4. On hearing the learned counsel for the petitioner/plaintiff and on perusal of the writ petition papers, I am of the view that Trial Court is justified in rejecting application filed under Section 151 of CPC.

5. Trial Court while rejecting application observed that if plaintiff succeeds in the suit, then she would be entitled for mesne profits with respect to rents said to have been received by defendant No.3. There is no reason to disagree with the reasoning of the Trial Court.

No ground is made out to interfere with impugned order. Accordingly, writ petition stands rejected.

**Sd/-**  
**JUDGE**

NC  
CT:bms