



**IN THE COURT OF THE III ADDL.SENIOR CIVIL
JUDGE & J.M.F.C, RANEBENNUR**

Present:Smt.Nivedita M.Munavallimath.,
B.Com.,LL.M
III Addl.Senior Civil Judge & JMFC,
Ranebennur.

Dated this the 14th day of November 2022

Execution Petition No.227/2021

Decree Holders: 1) Fazalulla S/o Mohammed
Ibrahimsaheb Rabbani @
Harapanahalli, R/o Halageri cross,
P.B.Road, Ranebennur-581115,
Dist: Haveri and others.
(By Sri.P.R.H.Advocate)
V/s

Judgment Debtor:1) Gousmohiddin S/o Ibrahimsab
Karjagi, R/o Ganesh Nagar,
1st Main, 1st Cross,
Ranebennur-581115, Dist: Haveri.
(By Sri.P.R.K.Advocate)

I.A.No.I

**Applicants:
(DHR)**

- 1) Fazalulla S/o Mohammed
Ibrahimsaheb Rabbani @
Harapanahalli, R/o Halageri cross,
P.B.Road, Ranebennur-581115,
Dist: Haveri and others.
- 2) Nazimuddin @ Nazimsab S/o
Mohammea Ibrahimsaheb Rabbani @
Harapanahalli, Age: 65 years,
Occ: Business, R/o Halageri cross,
P.B.Road, Ranebennur-581115,
Dist: Haveri.



- 3) Sartaz S/o Aktharali Rabbani @
Harapanahalli, Age: 33 years,
Occ: Business, R/o Halageri cross,
P.B.Road, Ranebennur-581115,
Dist: Haveri.
- 4) Liyakathali S/o Khalandarsab
Rabbani @ Harapanahalli,
Age: 55 years, Occ: Business,
R/o Halageri cross, P.B.Road,
Ranebennur-581115, Dist: Haveri.
- 5) Shamshuddin S/o Abdul Jalil
Rabbani @ Harapanahalli,
Age: 53 years, Occ: Business,
R/o Halageri cross, P.B.Road,
Ranebennur-581115, Dist: Haveri.
- 6) Ibrahim S/o Abdul Jalil Rabbani @
Harapanahalli, Age: 45 years,
Occ: Business, R/o Halageri cross,
P.B.Road, Ranebennur-581115,
Dist: Haveri.

V/s

**Opponent:
(JDr)**

Gousmohiddin S/o Ibrahimsab
Karjagi, R/o Ganesh Nagar,
1st Main, 1st Cross,
Ranebennur-581115, Dist: Haveri.

ORDER ON IA.No.I

The decree holders have filed the application U/o 21 Rule 36, R/w Section 151 of CPC, praying to issue possession warrant against the Jdr as the Jdr has failed to comply the direction of this Court.



2. The application is accompanied with the affidavit duly sworn by the decree holder No.4. It is stated in the affidavit that the suit filed by the Dhr's in OS.No.215/2018 (old OS.No.419/2012) is decreed and this Court directed the Jdr to hand over the vacant possession of suit properties within thirty days from the date of decree. But the Jdr has failed to comply the direction and dragging the matter one or other pretext with a dishonest intention to deprive the fruits of the decree. Hence prays to allow the application.

3. Per contra, the Jdr has filed objection stating that he has preferred an appeal before the Hon'ble II Additional District and Sessions Judge, Ranebennur, in RA.No.05/2022 and also filed application for staying the operation and execution of decree passed by this Court in OS.No.215/2018 (old OS.No.419/2012). Further contended that the Jdr is running chicken shop in the suit premises since long time and it is the only source available to him and his family. If he disposed from the suit property, his family members come to street and it will be put to heavy and irreparable loss to him and his family which cannot be compensated by means and also if he succeeded in appeal, it leads to multiplicity of



proceedings. Further contended that the suit property belongs to Wakf Board and he is the tenant under Wakf Board. The proceedings are pending before the Hon'ble High Court of Karnataka. Under these circumstances, it is not just and proper to allow the application filed by the Dhr's. Hence prays to dismiss the application.

4. Heard the counsel for Dhr. In spite of sufficient opportunity, the counsel for Jdr has not submitted hearing on IA.No.I. Perused the records.

5. The point that arises for my consideration is:

1) Whether the Dhr's have made out a grounds to issue possession warrant as sought in IA.No.I?

3) What order?

6. My findings to the above points are as under:

Point No.1: In the Affirmative and

Point No.2: As per the final order

for the following:

REASONS

7. **Point No.1:** On perusal of records, it is noticed that the present Dhr's have filed suit in OS.No.215/2018 (old OS.No.419/2012) for seeking the relief of possession which came to be decreed on 15.11.2021. Accordingly this Court directed the Jdr's



to vacant and hand over the possession of the suit properties within thirty days from the date of order. The records disclose that the present petition is filed by the Dhr's after the expiry of time limit provided by this Court.

8. It is the main objection of Jdr that he has challenged the Judgment and Decree passed by this Court before the Hon'ble II Additional District and Sessions Judge, Ranebennur, in RA.No.05/2022 and also moved an application for staying the operation and execution of Judgment and Decree passed by this Court in OS.No.215/2018 (old OS.No.419/2012) and further he is running chicken in the suit premises which is the only source to him.

9. Though the Jdr contended that he has preferred an appeal before the Hon'ble District Court, but no documents have been placed to show the same. On going through the records it is noticed that since 2012 the Dhr's are fighting for their property. If the application is rejected, the Dhr's will put to great hardship and irreparable loss would be caused to them. Under these circumstances, the Jdr's have not made out grounds to reject the claim as sought in IA.No.I. On country, the Dhr's made out a ground to issue possession warrant as sought in



IA.No.I. Accordingly, I answer the above **point No.1 in the Affirmative.**

10. Point No.2:- For the foregoing reasons, I proceed to pass the following :-

ORDER

IA.No.I filed by the decree holders
U/Order 21, Rule 36 R/w Section 151 of
CPC, is hereby allowed.

Office to issue possession warrant
against the Jdr.

Call on: 16.12.2022.

[Dictated to the Stenographer directly on computer typed by her, after transcription, the same is corrected and then pronounced by me in the open court on this 14th day of November – 2022).

III Addl. Senior Civil Judge
& JMFC., Ranebennur.

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