



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 20TH DAY OF AUGUST, 2025

**BEFORE
THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ**

WRIT PETITION NO.101636 OF 2024 (GM-CPC)

BETWEEN:

1. SRI. SIDDANAGOUDA
S/O. PARVATHAGOUDA MARICHANNAPPAGAUDAR,
AGE: 76 YEARS, OCC. AGRICULTURIST,
R/O. NOOLVI, TQ. HUBBALLI,
DIST. DHARWAD-580029.
2. SRI. IRANAGOUDA
S/O. SIDDANAGOUDA MARICHANNAPPAGAUDAR,
AGE: 43 YEARS, OCC. AGRICULTURIST,
R/O. NOOLVI, TQ. HUBBALLI,
DIST. DHARWAD-580029.
3. SRI. MALLIKARJUNGOUDA
S/O. SIDDANAGOUDA MARICHANNAPPAGAUDAR,
AGE: 39 YEARS, OCC. AGRICULTURIST,
R/O. NOOLVI, TQ. HUBBALLI,
DIST. DHARWAD-580029.
4. SRI. MANJUGOUDA
S/O. SIDDANAGOUDA MARICHANNAPPAGAUDAR,
AGE: 36 YEARS, OCC. AGRICULTURIST,
R/O. NOOLVI, TQ. HUBBALLI,
DIST. DHARWAD-580029.

...PETITIONERS

(BY SRI. SHIVASAI M. PATIL, ADVOCATE)

AND:

1. SMT BASAVVA W/O. NEELAPPA GUNDUDI,
AGE: 82 YEARS, OCC. HOUSE HOLD WORK,
R/O. NOOLVI, TQ. HUBBALLI,

Digitally signed by
ASHPAK
KASHIMSA
MALAGALADINNI
Location: High
Court of
Karnataka
Dharwad Bench,
Dharwad





DIST. DHARWAD-580029.

2. SMT. YALLAVVA W/O. CHANNABASAPPA HADIMANI,
AGE: 55 YEARS, OCC. HOTEL BUSINESS,
R/O. NOOLVI, TQ. HUBBALLI,
DIST. DHARWAD-580029.
3. SRI. YALLAPPA S/O. CHANNABASAPPA HADIMANI,
AGE: 35 YEARS, OCC. HOTEL BUSINESS,
R/O. NOOLVI, TQ. HUBBALLI,
DIST. DHARWAD-580029.
4. SRI. RAMU S/O. CHANNABASAPPA HADIMANI,
AGE: 33 YEARS, OCC. HOTEL BUSINESS,
R/O. NOOLVI, TQ. HUBBALLI,
DIST. DHARWAD-580029.

...RESPONDENTS

(NOTICE TO RESPONDENT IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI BY QUASHING THE JUDGEMENT DATED. 01-07-2023 PASSED IN MA NO.30/2022 ON THE FILE OF PRINCIPAL SENIOR CIVIL JUDGE AND JMFC, HUBBALLI, VIDE "**ANNEXURE-F**" IN THE INTEREST OF JUSTICE AND EQUITY.B) ISSUE A WRIT OF CERTIORARI BY QUASHING THE ORDER ON IA NO.1 PASSED ON 27-09-2022 IN OS NO.30/2021 ON THE FILE OF III ADDL. CIVIL JUDGE, AT HUBBALLI, VIDE "**ANNEXURE-E**", IN THE INTEREST OF JUSTICE AND EQUITY.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. Notice to the respondents is dispensed with in view
of the proposed order to be passed.



2. The petitioners are before this Court seeking for the following reliefs:

- a) *Issue a writ of Certiorari by quashing the Judgment dated. 01-07-2023 passed in M.A.No.30/2022 on the file of Principal Senior Civil Judge and JMFC, Hubballi, vide "**Annexure-F**" in the interest of justice and equity.*
- b) *Issue a writ of certiorari by quashing the order on Ia No.1 passed on 27-09-2022 in OS No.30/2021 on the file of III Addl. Civil Judge, at Hubballi, vide "**Annexure-E**" in the interest of justice and equity.*
- c) *Pass any other order or direction as this Hon'ble deems just and proper under facts and circumstances of case including award of cost in interest of justice and equity.*

3. Respondent No.1 had filed a suit in O.S.No.30/2021 against the petitioners, who were arrayed as defendant Nos.1 to 4 and respondent Nos.2 to 4 were arrayed as defendant Nos.5 to 7, seeking for a declaration that the compromise decree in O.S.No.735/2016 was not binding on the plaintiff therein as also for a consequential relief of permanent injunction restraining the defendants from demolishing the compound wall.



4. In the said suit, an application under Rule 1 and 2 of Order XXXIX of the Code of Civil Procedure (for short 'CPC') having been filed, the trial Court vide order dated 27.09.2022, granted an order of injunction restraining the defendants, the petitioners herein, from demolishing the compound wall, which when taken on appeal in M.A.No.30/2022, came to be confirmed. It is challenging both the orders, the petitioners are before this Court.
5. The submission of Shri Shivasai M.Patil, learned counsel for the petitioners, is that the compound wall had been constructed with the permission and consent of the petitioners for a temporary period. Now that the petitioners do not consent to further continuation of the compound wall, the defendants would be entitled to demolish the compound wall.
6. Having heard learned counsel for the petitioners and having perused papers, what the trial Court and the



First Appellate Court have done is, to preserve the subject matter of the dispute in *status quo* by preventing the demolition of the compound wall. In the event of this Court interceding in the matter, it is more than likely that the defendants would demolish the compound wall, which would not enure to the benefit of the plaintiff in the event of plaintiff succeeding in the suit.

7. In that view of the matter, one of the objects of Rule 1 and 2 of Order XXXIX of CPC being to protect the subject matter of the dispute in *status quo* until the decision is rendered on merits, I do not find any infirmity in the order passed by the trial Court or the First Appellate Court. The petition stands **dismissed**.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

AM/-
CT:PA
List No.: 1 Sl No.: 15