



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

DATED THIS THE 22ND DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 102361 OF 2024 (GM-CPC)

BETWEEN:

MOHAMMED ILIYAS SHAIKH HUSSAIN
AGED ABOUT 73 YEARS,
OCC. VEGITABLE VENDOR,
R/O. KAKARMATH, ANKOLA-581314,
DIST. UTTARA KANNADA.

...PETITIONER

(BY SRI. GIRISH S HIREMATH, ADVOCATE)

AND:

1. SMT. KHUTEJA HUSSAIN SHAIKH
AGED ABOUT 65 YEARS,
OCC. HOUSEWIFE, R/O. KAKARMATH,
ANKOLA-581314,
DIST. UTTARA KANNADA.

2. IBRAHIM MOHAMMED SHAIKH
AGED ABOUT 64 YEARS,
OCC. BUSINESS,
R/O. KAKARMATH, ANKOLA-581314,
DIST. UTTARA KANNADA.

...RESPONDENTS

(BY SRI. SHARAD M. PATIL. ADVOCATE FOR C/R1;
NOTICE TO R2 IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLES 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO, A) THIS HON BLE COURT
MAY KINDLY BE PLEASED TO ISSUE A WRIT OF CERTIORARI BY
QUASHING THE ORDER DATED 31.10.2023 PASSED BY THE HON BLE
CIVIL JUDGE AND JMFC ANKOLA IN O.S.NO.90/2023 AT VIDE
ANNEXURE-B AND QUASH ORDER DATED 06.01.2024, WHICH WAS

Digitally signed
by SAROJA
HANGARAKI
Location: High
Court of
Karnataka,
Dharwad Bench,
Dharwad



CONFIRMED IN MA NO.7/2023 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC COURT ANKOLA IN MA NO.7/2023 DATED 06.01.2024 AT VIDE ANNEXURE-G IN THE INTEREST OF JUSTICE AND EQUITY.

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

ORAL ORDER

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

1. Sri.Sharad M Patil, who has filed caveat for respondent No.1, accepts notice for respondent No.1.
2. Notice to respondent No.2 is dispensed with in view of the proposed order to be passed.
3. The petitioner is before this Court seeking for the following reliefs:
 - a) *This Hon'ble court may kindly be pleased to issue a writ of certiorari by quashing the order dated 31.10.2023 passed by the Hon'ble Civil Judge and JMFC Ankola in O.S.No.90/2023 at vide Annexure-D and quash order dated 06.01.2024, which was confirmed in MA No.7/2023 passed by the Senior Civil Judge and JMFC Court Ankola in MA No.7/2023 dated 06.01.2024 at vide Annexure-F in the interest of justice and equity.*
 - b) *Passed any other order as deems fit under the circumstances of the case in the interest of justice and equity.*



4. The petitioner had filed a suit in OS No.90/2023 seeking for declaration that the judgment dated 13.08.2022 and compromise decree dated 16.08.2022 passed before the Lok-adalath in OS No.1/2021 was not binding on the plaintiff. In the said suit, the plaintiff had filed an application under Rules 1 and 2 of Order 39 of CPC for injunction restraining the defendants, their agents and anybody claiming under them from dispossessing the plaintiff. The said application came to be rejected by the Trial Court by its order dated 31.10.2023. On an appeal having been filed by the petitioner in MA No.7/2023, the said appeal came to be dismissed vide order dated 06.01.2024. It is challenging both the orders, the petitioner is before this Court.
5. A perusal of both the orders would indicate that both the Courts were of the opinion that once there was a compromise which was entered into, until such



compromise is set aside the relief of injunction cannot be granted.

6. The rights which have been sought for by the plaintiff are yet to be established in the said suit *inasmuch* as a oral gift pleaded by the petitioner has not been established. The First Appellate Court has also come to a conclusion that mere temporary permission permitting the petitioner to vent would not amount to possession on the part of the petitioner and as such both the Courts have come to a conclusion that there is no prima facie case made out by the petitioner.
7. On enquiry, both the counsels submitted that the matter is now posted for defendants' evidence. The plaintiff having already completed his evidence, the counsel for respondent No.1 submitted that the defendants would lead their evidence on the very next date the matter is listed for such purpose,



without seeking for any adjournment, by keeping his witnesses present.

8. In that view of the matter, considering that once the defendants' evidence is led, the matter could be taken up for arguments and the suit be disposed, it would not be proper for this Court to interfere with the well reasoned finding of the Trial Court and the First Appellate Court.
9. Accordingly, the petition stands **disposed**.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

sh
CT:PA
List No.: 1 Sl No.: 27