



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 201626 OF 2026 (GM-CPC)

BETWEEN:

DAGADU
S/O BABURAO BIRAJDAR,
AGE 56 YEARS,
OCC AGRICULTURE AND SERVICE
R/O UMARGA TOWN PROPER
TQ UMARGA
DIST DHARASHIV (USMANABAD)
MAHARASHTRA STATE 413606

...PETITIONER

(BY SRI GHATE KONDIBARAO, ADV.)

AND:

VAIJINATH
S/O SHANKRAYYA KANNADE,
AGE 66 YEARS,
OCC RETIRED TEACHER,
R/O BASAVA KUTEERA
H NO 8622/16 HIREMATH COLONY,,
BASAVAKALYAN,
DISTRICT BIDAR 585327

...RESPONDENT

(BY SRI SACHIN M.MAHAJAN, ADV.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE ORDER PASSED BY THE SENIOR CIVIL JUDGE AND
JMFC, BASAVAKALYAN IN M.A.NO.8/2025 DATED 01.04.2026
VIDE ANNEXURE-A TO THE WRIT PETITION AND





CONSEQUENTLY REJECT THE IA NO.II FILED BY THE RESPONDENT / DEFENDANT IN OS NO.236/2024 UNDER ORDER XXXIX RULE 1 AND 2 OF CPC, ETC.

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

1. Plaintiff is before this Court under Article 227 of the Constitution of India seeking for the following reliefs:

a) Issue writ of certiorari/direction/order, quashing the order passed by the Hon'ble Senior Civil Judge and JMFC, Basavakalyan in M.A.No.8/2025 dated 01.04.2026 vide ANNEXURE-A to the writ petition, and consequently reject the IA No.II filed by the respondent/defendant in OS No.236/2024 under Order XXXIX Rule 1 and 2 of CPC, to meet the ends of justice and equity.

b) Under the facts and circumstances and the grounds urged by the petitioner/defendants and miscarriage of justice by the trial Court and first appellate Court, the cost of the present writ petition may kindly be awarded to the petitioner/defendants as against plaintiff/respondent, to meet the ends of justice and equity.

2. Heard the learned Counsel for the parties.



3. Suit in O.S.No.236/2024 is filed by the petitioner against the respondent herein seeking the relief of perpetual injunction in respect of a house property. In the said suit, the defendant has filed a detailed written statement opposing the suit claim. The defendant, subsequently has filed an application under Order XXXIX Rule 1(a) read with Section 151 of CPC with a prayer to grant an order of temporary injunction restraining the plaintiff from interfering with his possession and enjoyment of the suit schedule property. The said application was opposed by the plaintiff by filing objections.

4. The Trial Court has allowed the said application IA-2 vide order at Annexure-E dated 18.08.2025 and the said order has been confirmed by the Court of Senior Civil Judge & JMFC, Basavakalyan, in M.A.No.8/2025 vide order dated 01.04.2026 at Annexure-A. It is under these circumstances, the petitioner is before this Court.

5. Perusal of the written statement of the defendant would go to show that he had not raised any counter claim and has not given any separate schedule to his written statement. IA-2 is filed seeking an order of temporary injunction restraining the



plaintiff and anybody claiming under him from interfering with the possession and enjoyment of the plaint schedule property by the defendant. Such an application could not have been entertained by the Trial Court in view of the judgment of the Full Bench of this Court in the case of **SMT. SHAKUNTHALAMMA & OTHERS VS SMT. KANTHAMMA & OTHERS – ILR 2014 KAR 6025**. Under the circumstances, the impugned orders at Annexure-E dated 18.08.2025 passed on IA-2 by the Trial Court in O.S.No.236/2024 and Annexure-A dated 01.04.2026 passed in M.A.No.8/2025, cannot be sustained. Accordingly, the following order:

6. Writ petition is allowed. The impugned orders dated 18.08.2025 at Annexure-E passed on IA-2 by the Court of Addl. Civil Judge & JMFC, Basavakalayan, in O.S.No.236/2024, and Annexure-A dated 01.04.2026 passed by the Court of Senior Civil Judge & JMFC, Basavakalyan, in M.A.No.8/2025, are set aside.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

KK