IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 27TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 100405 OF 2023 (GM-CPC)

BETWEEN:

CHANDRASHEKHAR S/O SHIDDAYYA HIREMATH
AGE. 62 YEARS, OCC. AGRICULTURE,
R/O. VEERSBHSDRESHWARA NILAYA,
NEAR GANAPATI TEMPLE, VINAYAK NAGAR,
NAVALURU, TQ. DIST. DHARWAD

...PETITIONER

(BY SRI. ARUN L NEELOPANT, ADVOCATE)

AND:

1. FAKKIRAPPA S/O KARIYAPPA VADDELLAPPANAVAR
   AGE. 64 YEARS, OCC. SERVICE,
   R/O. TALWAR ONI, NAVALUR,
   TQ. DIST. DHARWAD.

Digitally signed by YASHAVANT NARAYANKAR
Location: High Court of Karnataka, Dharwad Bench

2. SRI YALLAPPA S/O KARIYAPPA VADDELLAPPANAVAR
   AGE. 60 YEARS, OCC. AGRICULTURE,
   R/O. TALWAR ONI, NAVALUR,
   TQ. DIST. DHARWAD

3. SRI MARUTI S/O KARIYAPPA VADDELLAPUR
   AGE. 52 YEARS, OCC. AGRICULTURE,
   R/O. TALWAR ONI, NAVALUR
   TQ. DIST. DHARWAD

4. SRI NAGAPPA S/O KARIYAPPA VADDELLAPPANAVAR
   AGE. 49 YEARS, OCC. AGRICULTURE,

R/O. TALWAR ONI, NAVALUR,
TQ.DIST. DHARWAD

5. SRI. MAHANTESH S/O FAKKIRAPPA
VADDELLAPPANAVAR
AGE. 54 YEARS, OCC. NOT KNOWN,
R/O. TALWAR ONI, NAVALUR,
TQ. DIST. DHARWAD.

6. SRI SANTOSH S/O FAKKIRAPPA VADDELLAPPANAVAR
AGE. 44 YEARS, OCC, NOT KNOWN,
R/O. TALWAR ONI, NAVALUR,
TQ. DIST. DHARWAD

7. SMT BALAVVA W/O FAKKIRAPPA VADDELLAPPANAVAR
AGE. 58 YEARS, OCC. HOUSEHOLD,
R/O. TALWAR ONI, NAVALUR,
TQ. DIST. DHARWAD

8. SMT BHIMAVVA D/O MARUTI VADDELLAPPANAVAR
AGE. 52 YEARS, OCC. AGRICULTURE,
R/O. TALWAR ONI, NAVALUR,
TQ. DIST. DHARWAD

…RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OR DIRECTION OR ORDER IN THE NATURE OF WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER PASSED BY THE II ADDITIONAL CIVIL JUDGE AND J.M.F.C. II COURT, DHARWAD DATED 21.01.2022 IN O.S. NO. 248/2016 AS PER ANNEXURE-A AND ALLOW THE APPLICATION AS PER ANNEXURE-F FILED BY THE PETITIONER/PLAINTIFF SEEKING POLICE AID FOR IMPLEMENTING THE TEMPORARY INJUNCTION ORDER DATED 18/11/2016 CONFIRMED IN M.A. NO.44/2016 DATED 17-06-2017.

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

ORDER

The captioned writ petition is filed by the plaintiff feeling aggrieved by the order of the Court below on an application filed under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 to direct the Police Inspector, Vidyagiri Police Station, Dharwad to enforce the order of temporary injunction. The said application came to be rejected by the Court below. The plaintiff has knocked the doors of this Court assailing the order of the learned Judge in declining to grant police protection.

2. The plaintiff has instituted a bare suit for injunction. The court below has granted interim injunction thereby restraining the defendants from interfering with plaintiff's peaceful possession and enjoyment over the suit property.

3. In the affidavit filed in support of the application, this Court would find that there is lot of ambiguity and vagueness. No materials are placed on record, which would

warrant interference at the hands of this Court. If the interim order is passed restraining the defendants not to interfere with the plaintiff's peaceful possession, the question of enforcing interim injunction at the intervention of police officer is unwarranted. It is a trite law that the police protection has to be extended in exceptional cases. The plaintiff has to make out a case for police protection. The learned Judge has rightly rejected the application by holding that the plaintiff is at liberty to seek remedy under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908. In view of the above, the writ petition stands ***dismissed***.

4. In view of disposal of the petition, pending interlocutory applications, if any, do not survive for consideration and are disposed of accordingly.

SD/-
JUDGE

YAN, List No.: 1 Sl No.: 14