



CNR: KAHC010005122023

NC: 2026:KHC:39198  
W.P. No.172/2023

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 28<sup>TH</sup> DAY OF JULY, 2026**  
**BEFORE**  
**THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**  
**WRIT PETITION NO.172/2023 (GM-CPC)**

**BETWEEN:**

SRI. J.S. KRISHNAPPA  
S/O SHESHA POOJARI  
AGED ABOUT 74 YEARS  
AGRICULTURIST  
R/AT JAKKANAHALLI VILLAGE AND POST  
CHIKKAMAGALUR  
TALUK AND DISTRICT - 577130.

...PETITIONER

(BY SRI. PANCHAM R.D. ADV.,)

**AND:**

1. SRI. MOHAN DAS  
S/O LATE MUTHAPPA POOJARI  
AGED ABOUT 54 YEARS.
2. SRI. SURENDRA  
S/O LATE MUTHAPPA POOJARI  
AGED ABOUT 49 YEARS.
3. SRI. NARENDRA  
S/O LATE MUTHAPPA POOJARI  
AGED ABOUT 46 YEARS.

ALL ARE R/AT JAKKANAHALLI VILLAGE AND POST  
CHIKKAMAGALUR TALUK AND DISTRICT - 577130.

...RESPONDENTS

(BY SRI. SUHAS C.S. ADV., FOR  
SRI. RAKESH KINI, ADV., FOR R1 TO R3)

Digitally signed  
by RUPA V  
Location: HIGH  
COURT OF  
KARNATAKA



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THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 25.11.2022, PASSED BY THE COURT OF THE SENIOR CIVIL JUDGE AND CJM , AT CHIKKAMAGALUR, ON I.A.NO. VI IN O.S.NO.35/2019, VIDE ANNEXURE- E & ETC.

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

**CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**

**ORAL ORDER**

This writ petition is filed challenging the order dated 25.11.2022 passed on I.A.No.6 in O.S.No.35/2019 on the file of the Principal Senior Civil Judge and CJM, Chikkamagaluru (for short, '***the trial Court***').

2. Heard Sri.R.D.Pancham, learned counsel appearing for the petitioner and Sri.Suhas C.S., learned counsel for Sri.Rakesh Kini, learned counsel for the respondent Nos.1 to 3 and perused the material available on record.

3. The petitioner had filed the suit in O.S.No.35/2019 seeking relief of declaration that the



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plaintiff is the full and absolute owner of the plaint 'A' schedule property of which plaint 'B' schedule property is a portion and other reliefs. In the said suit, the respondents-defendants filed the written statement. The issues were framed. The parties adduced the evidence. The matter was posted for arguments. At that stage, the plaintiff filed I.A.No.6 under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908, (for short, '**the CPC**') seeking to amend the plaint by incorporating certain lines in para No.3 of the plaint and sought to add para 3(a) and 3(b) in the plaint. The affidavit accompanying the application states the reason. The said application was opposed by the defendants. The trial Court under the impugned order rejected the application on the ground that the plaintiff intends to plead a new case as he has already adduced the evidence based on the pleading and at the fag end of the proceedings, when matter was posted for arguments, said application was filed and rejected the same.



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4. The reasons assigned in the affidavit accompanying the application indicate the cause for seeking the proposed amendment as that the plaintiff was unaware that his counsel could not plead certain facts and there is a change in counsel. In my considered view, such a reason in the affidavit cannot be termed as 'sufficient cause' and there is no due diligence shown as provided under the proviso to Order VI Rule 17 of the CPC.

5. It is required to be noticed that in the proposed amendment, the petitioner intends to plead that the father of the plaintiff had executed registered sale deed dated 05.11.1952 in favour of Smt.Seethamma, the mother of the plaintiff, and later she has executed a Will dated 22.07.1986 in favour of the plaintiff. In my considered view, the aforesaid facts were well within the knowledge of the plaintiff when the suit came to be filed and hence, the application, filed at the stage when the matter is posted for arguments, has been rightly rejected by the trial Court.



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The trial Court has taken note of the fact that matter is posted for arguments. The trial Court has also recorded the reasons that plaintiff is pleading new case altogether. I do not find any error or perversity in the order of the trial Court calling for interference in this petition. Hence, the writ petition is devoid of merits and the same is accordingly ***rejected***.

No order as to costs.

**Sd/-**  
**(VIJAYKUMAR A. PATIL)**  
**JUDGE**

BSR  
List No.: 1 Sl No.: 44