



CNR: KAHC010082112026

NC: 2026:KHC:54834
WP No. 4316 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 4316 OF 2026 (GM-CPC)

BETWEEN:

1. SRI KRISHNAPPA
S/O. LATE NARASAPPA,
AGED ABOUT 50 YEARS,
R/AT THRUVANAHALLI VILLAGE,
TUBUGERE HOBLI- 561 203
DODDABALLAPUR TALUK.

...PETITIONER

(BY SRI VINAY KUMAR, G.S., ADVOCATE FOR
SRI V.F. KUMBAR, ADVOCATE)

AND:

1. MUNIYAMMA
SINCE DEAD BY HER LRS
SRI NARAYANASWAMY,
S/O. LATE MUTHRAYAPPA,
AGED ABOUT 59 YEARS
2. SRI RAMESH
S/O. MUTHRAYAPPA
AGED ABOUT 54 YEARS
3. SMT. RATHNAMMA,
D/O. LATE NARASAPPA,
AGED ABOUT 65 YEARS
4. SMT. MUTHAMMA,
D/O. LATE NARASAPPA,

Digitally
signed by
VINAY K B S
Location:
High Court of
Karnataka



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W/O. NARAYANASWAMY,
AGED ABOUT 57 YEARS

5. SMT. LAKSHAMAMMA
D/O. LATE NARASAPPA
W/O. KRISHNA MURTHY,
AGED ABOUT 55 YEARS

ALL ARE RESIDING AT
TURVANAHALI VILLAGE,
TUBUGERE HOBLI,
DODDABALLAPURA TALUK, 561203

6. SRI SHADAB PASHA,
S/O. SRI ABDUL KHADER,
AGED ABOUT 32 YEARS,
RESIDING AT DOOR NO. 69,
7TH CROSS, NEELASANDRA,
BAZAAR BEEDI
BANGALORE SOUTH 560 047

...RESPONDENTS

(BY SRI OMKARA N., ADVOCATE FOR R1 TO R5;
SRI SADANANDA SHASTRI, ADVOCATE FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER
PASSED BY THE LEARNED SENIOR CIVIL JUDGE AND JMFC AT
DODDABALLAPUR IN O.S.NO.137/2012 ON I.A. NO.LXII DTD.
10.10.2025 VIDE AT ANNEX-D.

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND



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ORAL ORDER

1. The present petition is filed impugning the order dated 10.10.2025 passed in O.S. No. 137/2012, whereby I.A. No. LXII, filed under Order VI Rule 17 of the CPC seeking amendment of the written statement, came to be rejected.

2. Learned counsel appearing for the petitioner-defendant No.2 before the Trial Court submits that defendant No.3 has been impleaded as a party on the ground that he is the alleged purchaser of Item No.2 of the suit schedule property. It is submitted that the transaction between defendant No.2 and defendant No.3 was intended to be a mortgage, but the same was allegedly registered as a sale deed by fraud and misrepresentation. In view of the specific stand taken by defendant No.3, the amendment has become necessary. It is further submitted that, if the amendment is permitted, neither the cause of action nor the nature of the suit would undergo any change. The amendment is, therefore, necessary for the comprehensive adjudication of the suit.



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3. Per contra, learned counsel appearing for the respondents submits that the proposed amendment seeks to challenge the sale deed executed by the petitioner herein in favour of defendant No.3, which was well within the knowledge of the petitioner at the time of filing the written statement. It is submitted that the application came to be filed after the completion of recording of evidence of all the parties. It is further submitted that, if the amendment is permitted, the cause of action and the nature of the suit would necessarily travel beyond the relief of partition and separate possession. In that view of the matter, the learned Trial Court is justified in rejecting the application.

4. Considered the submissions made by the learned counsel for the parties and perused the impugned order.

5. The suit is one for partition and separate possession. Defendant No.3 has been impleaded as the purchaser of Item No.2 of the suit schedule property during the pendency of the suit. It is to be noted that the petitioner herein executed the sale deed in favour of defendant No.3 during the pendency of the suit. The petitioner contends that the said document was



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intended to be executed as a mortgage deed. However, taking advantage of the petitioner's illiteracy, the document was registered as a sale deed.

5.1. It appears that the necessity to raise such a defence is only to ensure that, if any share is allotted to the petitioner herein, the same is not set off against the property already sold in favour of defendant No.3. If the grievance of the petitioner is that the alleged sale deed was registered by taking advantage of the petitioner's illiteracy and by fraud and misrepresentation, such grievance cannot be redressed in the present suit, which is one for partition. If such an amendment is permitted, it would introduce a new cause of action and the suit would travel beyond the relief sought for partition and separate possession. Merely because the petitioner may maintain a separate suit seeking similar relief cannot be a ground to allow the present application for amendment. The Trial Court, having rightly observed that the proposed amendment introduces a new cause of action and changes the nature of the suit, has rejected the application. Hence, this Court finds no error or infirmity in the impugned order.



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6. Accordingly, the writ petition is ***dismissed***.

**SD/-
(K. V. ARAVIND)
JUDGE**

VP
List No.: 1 Sl No.: 10