



CNR: KAHC010096642022

NC: 2026:KHC:41559
W.P. No.4823/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 6TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.4823/2022 (GM-CPC)

BETWEEN:

SRI. JAYAMURTHAPPA
S/O SIDDAPPA
AGED 59 YEARS
AGRICULTURIST
R/O KONDAMVARIPALLI VILLAGE
KASABA HOBLI, BAGEPALLI TQ
CHIKKABALLAPURA DIST 563124.

...PETITIONER

(BY SRI. N.S. HIEMATH, ADV., FOR
SRI. M.B. CHANDRACHOODA, ADV.,)

AND:

SRI. K.H. NAGARAJ
S/O LATE HANUMANTHAPPA
AGED 52 YEARS
OCC : AGRICULTURIST
R/O KONDAMVARIPALLI VILLAGE
KASABA HOBLI, BAGEPALLY TQ
CHIKKABALLAPURA DIST 563124.

...RESPONDENT

(RESPONDENT IS SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
ORDER DATED 03.02.2022 PASSED ON I.A FILED U/O VI RULE
17 R/W SEC. 151 OF CPC IN O.S.NO.231/2015 ON THE FILE OF
CIVIL JUDGE AND JMFC, BAGEPALLI, VIDE ANNEXURE-F BY
ISSUE OF WRIT OF CERTIORARI & ETC.

Digitally signed
by RUPA V
Location:
HIGH COURT
OF
KARNATAKA



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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 03.02.2022 passed in O.S.No.231/2015 by the Civil Judge and JMFC, Bagepalli (for short, '*the trial Court*').

2. Heard Sri.N.S.Hiremath, learned counsel for Sri.M.B.Chandra Chooda, learned counsel for the petitioner and perused the material available on record.

3. Though the notice is served on the respondent, there is no representation.

4. The respondent-plaintiff had filed the suit in O.S.No.231/2015 seeking the relief of permanent injunction against the petitioner-defendant from interfering with his peaceful possession and enjoyment of the suit schedule property. The suit schedule property is shown as the land bearing Sy.No.17/1 totally measuring



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23 guntas, out of which East-West 15 feet and North-South 33 feet situated at Kondamvaripalli Village, Kasba Hobli, Bagepalli Taluk, Chikballapur District with *chakbandis*. The defendant filed a detailed written statement. The trial Court framed the issues. When the matter was posted for plaintiff's evidence, at that stage, the plaintiff filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, (for short, '**the CPC**') seeking to amend the plaint and also sought additional prayer, which was opposed by the defendant. The trial Court under the impugned order allowed the application.

5. The contention of the petitioner-defendant is that the said application is filed after five (05) years from the date of filing of the suit, the additional prayer sought in the application is barred by law of limitation and now by the proposed amendment the plaintiff is seeking to delete the boundaries shown in the plaint by substituting with the new boundaries, which is impermissible.



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6. It is to be noticed that the plaintiff has specifically stated in the application as well as in the affidavit that during the pendency of the suit, the defendant has encroached the plaintiff's property and constructed dwelling house which is shown as ABCD in the annexed rough sketch. With the aforesaid proposed pleading, the plaintiff has sought the additional prayer of mandatory injunction against the defendant to remove the unlawful structure to an extent of East to West 35 feet and North to South 17 feet shown as ABCD in the annexed rough sketch and to handover the possession of the same to the plaintiff and further prayer for amendment to the schedule. The trial Court recorded the reason that the application is filed when the matter was posted for plaintiff's evidence. It has further observed that insofar as the contention of limitation is concerned, the same can always be raised by the defendant by filing the additional



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written statement and the trial Court can frame the issue of limitation and try the same along with the other issues.

7. The trial Court also recorded the finding that the deletion of earlier boundaries and insertion of new boundaries is also permissible as the plaintiff is making such changes based on subsequent events as the parties to the proceedings are disputing with regard to the location of the property and proceeded to allow the application. I do not find any good grounds to interfere with the impugned order calling for interference in the present petition.

8. The petitioner-defendant is permitted to file additional written statement raising the question of limitation and the trial Court shall frame the additional issue on raising such issue in the additional written statement and try the suit along with the other issues.



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9. With the aforesaid observations, the writ petition is ***disposed of*** without interfering with the impugned order of the trial Court.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 24