



CNR: KAHC010108402018

NC: 2026:KHC:49338
WP No. 33647 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 33647 OF 2018 (GM-CPC)

BETWEEN:

1. SRI P N KRISHNAMURTHY
S/O NARASIMHAIAH
AGED ABOUT 49 YEARS
RESIDING AT NO.32
OFFICIAL MODEL COLONY,
T.DASARAHALLI, BENGALURU-57.

...PETITIONER

(BY SRI. ABHINAY .Y.T, ADVOCATE)

AND:

1. K N VENUGOPAL
S/O NAGARAJ,
AGED ABOUT 43 YEARS
2. K.N.DASARATH
S/O NAGARAJ,
AGED ABOUT 39 YEARS

BOTHA RE RESIDING AT NO.1495/A
29TH MAIN ROAD, HSR LAYOUT,
I SECTOR, BENGALURU-102.

3. N SRINIVAS REDDY
S/O LATE NANJAPPA REDDY,
AGED ABOUT 56 YEARS
4. SMT. SHAKUNTHALA
W/O N SRINIVAS REDDY,

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified

Digitally signed by
NAGARAJA B M
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010108402018

NC: 2026:KHC:49338
WP No. 33647 of 2018

AGED ABOUT 42 YEARS

R3 AND R4 ARE RESIDING AT
NO.135/4, SARJAPUR MAIN ROAD,
I BLOCK, KORAMANGALA,
BENGALURU-34.

...RESPONDENTS

(BY SRI. SHIVANANDA METI, ADVOCATE FOR R1 AND R2;
NOTICE TO R3 AND R4 IS DISPENSED WITH V/O DATED
10.09.2026)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
ORDER DATED 25.4.2018 PASSED IN O.S.NO.2248/2011 BY
THE XXXIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE,
BENGALURU [ANNEXURE-E] PASSED ON IA NO.4 FILED UNDER
ORDER VI RULE 17 OF THE CODE OF CIVIL PROCEDURE, 1908.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The present writ petition is at the instance of defendant
No.1, calling in question the order dated 25.04.2018 passed in
O.S.No.2248/2011 by the XXXIV Additional City Civil and
Sessions Judge, Bengaluru, whereby the learned Trial Judge
has allowed I.A.No.4 filed by the plaintiffs seeking amendment
of the plaint so as to incorporate the relief of declaration of
title.

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010108402018

**NC: 2026:KHC:49338
WP No. 33647 of 2018**

2. Since respondent Nos.3 and 4 are co-defendants and are only formal parties to the proceedings, notice to respondent Nos.3 and 4 is dispensed with in terms of the memo dated 10.09.2026.

3. The principal contention urged by the learned counsel appearing for the petitioner is that the learned Trial Judge, while allowing the application for amendment, has failed to take note of the specific denial of the plaintiffs' title by the present petitioner in the written statement filed as far back as in the year 2011. It is contended that the application for amendment seeking incorporation of the relief of declaration was filed subsequently and that the learned Trial Judge has mechanically permitted the amendment without safeguarding the right of the petitioner to raise the plea of limitation in respect of the newly incorporated relief.

4. This Court has heard the learned counsel appearing for the parties and perused the order impugned. The learned Trial Judge has exercised judicial discretion in allowing the application for amendment. However, the limited question that arises for consideration in the present petition is:

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010108402018

NC: 2026:KHC:49338
WP No. 33647 of 2018

"Whether the learned Trial Judge was required to protect the plea of limitation by specifically directing that the proposed amendment, insofar as it relates to the relief of declaration of title, shall operate from the date of filing of the application for amendment and shall not relate back to the date of institution of the suit?"

5. The suit, as originally instituted, was one for the relief of permanent injunction. The suit came to be instituted on 29.06.2018. The present petitioner, who is arrayed as defendant No.1, filed his written statement on 08.07.2011. In the said written statement, the petitioner has specifically disputed the title as well as possession of the plaintiffs. It would be apposite to extract paragraph Nos.3(a) to 3(d) of the written statement, which read as under:

"3) The plaintiffs have filed the above suit seeking permanent injunction against the defendant from interfering with their peaceful possession and enjoyment of the suit schedule property and for other reliefs. The suit is not maintained and liable to be dismissed on the following amongst other grounds:-

a) Plaintiffs are not the absolute owner of the suit schedule property.

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010108402018

**NC: 2026:KHC:49338
WP No. 33647 of 2018**

b) Plaintiffs are not in possession of the Suit Schedule Property at any point of time.

c) Plaintiffs have not come to this Hon'ble Court with clean hands and has suppressed material facts from this Hon'ble Court. Plaintiff is not the owner of the Schedule Property. Plaintiff has no right to seek any relief from this Hon'ble Court. The suit is liable to be dismissed on this ground alone.

d) Suit for grant of injunction is not maintainable against the true owners having valid title."

(Emphasis supplied)

6. A plain reading of paragraph Nos.3(a) and 3(b) of the written statement makes it evident that the petitioner had, at the earliest point of time, seriously disputed the title and possession claimed by the plaintiffs. Such denial was specifically raised in the written statement filed in the year 2011. Therefore, while permitting the plaintiffs to amend the plaint by incorporating the relief of declaration of title, the learned Trial Judge was required to consider the effect of such prior denial and protect the right of the petitioner to raise the plea of limitation in respect of the declaratory relief.

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010108402018

**NC: 2026:KHC:49338
WP No. 33647 of 2018**

7. It is well settled that while allowing an amendment incorporating a relief of declaration, particularly where the question of limitation arises on account of a prior denial of title, the Court is required to indicate the date from which the amended relief would operate. If no such qualification is made, the amendment ordinarily relates back to the date of institution of the suit, thereby potentially defeating a plea of limitation available to the opposite party. In the facts of the present case, since the petitioner's written statement discloses a specific denial of the plaintiffs' title as far back as in 2011, the amendment, insofar as it relates to the relief of declaration of title, deserves to operate from the date of filing of the application for amendment and not from the date of institution of the suit.

8. Accordingly, the petitioner shall be at liberty to file an additional written statement and raise the plea of limitation, as also all other legally permissible pleas, in respect of the amended relief. The learned Trial Court shall consider such pleas in accordance with law and on their own merits. The amendment permitting incorporation of the relief of declaration



CNR: KAHC010108402018

NC: 2026:KHC:49338
WP No. 33647 of 2018

of title shall operate from the date on which the application seeking such amendment was filed and shall not relate back to the date of institution of the suit.

9. The further contention of the petitioner that the plaintiffs' title had also been disputed in the proceedings before the BBMP Commissioner gives rise to a disputed question of fact. This Court, exercising jurisdiction under Article 227 of the Constitution of India, does not propose to adjudicate upon such disputed questions at this stage. The petitioner is at liberty to urge all such contentions before the learned Trial Court by way of an additional written statement, and the same shall be considered in accordance with law.

10. It is also made clear that, though the material on record indicates that the plaintiffs' title was specifically disputed by the petitioner in the written statement filed in 2011, the question as to whether such denial had occurred even prior to the institution of the suit is a matter which may have a bearing upon the plea of limitation and is essentially a question of fact. The petitioner shall, therefore, be at liberty to raise all such pleas before the learned Trial Court, and nothing stated in this

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



CNR: KAHC010108402018

NC: 2026:KHC:49338
WP No. 33647 of 2018

order shall be construed as an expression of opinion on the merits of such pleas.

11. For the foregoing reasons, the writ petition deserves to be allowed in part. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The writ petition is ***allowed in part.***

(ii) The order permitting the plaintiffs to amend the plaint and incorporate the relief of declaration of title is affirmed, subject to the clarification that such amendment shall operate from the date of filing of the application for amendment and shall not relate back to the date of institution of the suit.

(iii) The petitioner/defendant No.1 is at liberty to file an additional written statement and raise the plea of limitation and all other pleas available in law in relation to the amended relief.

(iv) All such pleas shall be considered and adjudicated upon by the learned Trial Court in

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified



**NC: 2026:KHC:49338
WP No. 33647 of 2018**

CNR: KAHC010108402018

accordance with law, uninfluenced by any
observations made in this order.

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified

**(SACHIN SHANKAR MAGADUM)
JUDGE**

NBM
List No.: 1 SI No.: 11