



CNR: KAHC010110752026

NC: 2026:KHC:36320
CRP No. 138 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 138 OF 2026 (IO)

BETWEEN:

SMT. MEENAKSHAMMA
WIFE OF SAGANAPPA,
AGED ABOUT 65 YEARS,
R/AT KITTURU RANI CHENNAMMA LAYOUT
4TH CROSS, RANGANATHA NILAYA,
JANNAPURA, BHADRAVATHI TOWN,
SHIVAMOGGA DISTRICT -577 301

...PETITIONER

(BY SRI. PURNACHANDRA M PURANIK, ADVOCATE)

AND:

1. SMT.ERAMMA
WIFE OF LATE RANGAPPA,
AGED ABOUT 62 YEARS
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI,
TARIKERE TALUK
CHIKMAGALURU DISTRICT- 577 129
2. SRI. SHIVAMURTHY,
SON OF LATE RANGAPPA,
AGED ABOUT 40 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI,
TARIKERE TALUK,
CHIKMAGALURU DISTRICT-577 129
3. SRI. ONKARAPPA,

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signed by
SUVARNA T
Location:
HIGH
COURT OF
KARNATAKA



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SON OF LATE RANGAPPA,
AGED ABOUT 30 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI,
TARIKERE TALUK,
CHIKMAGALURU DISTRICT- 577 129

4. SRI. SOMASHEKARAPPA,
SINCE DEAD REPRESENTED BY HIS LRS
SMT. YASHODHAMMA,
WIFE OF LATE SOMASHEKARAPPA,
AGED ABOUT 65 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI,
TARIKERE TALUK,
CHIKMAGALURU DISTRICT- 577 129
5. SMT. PADMA,
WIFE OF LATE SOMASHEKARAPPA,
AGED ABOUT 65 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI,
TARIKERE TALUK,
CHIKMAGALURU DISTRICT- 577129
6. SRI. KUMAR,
SON OF LATE SOMASHEKARAPPA,
AGED ABOUT 40 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI, TARIKERE TALUK,
CHIKMAGALURU DISTRICT- 577129
7. SRI. RAMESH,
SON OF LATE SOMASHEKARAPPA,
AGED ABOUT 38 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI, TARIKERE TALUK
CHIKMAGALURU DISTRICT- 577129



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8. SRI. NAGARAJ,
SON OF LATE SOMASHEKARAPPA,
AGED ABOUT 36 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI, TARIKERE TALUK,
CHIKMAGALURU DISTRICT- 577129
9. SMT. LATHA,
SON OF LATE SOMASHEKARAPPA,
AGED ABOUT 38 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI,
TARIKERE TALUK,
CHIKMAGALURU DISTRICT- 577129
10. SRI. T. CHANDRAPPA,
SON OF THIMMAIAH,
AGED ABOUT 50 YEARS,
RESIDING AT UDEVA VILLAGE,
LINGADAHALLI HOBLI, TARIKERE TALUK
CHIKMAGALURU DISTRICT- 577129
11. SRI. SAGANAPPA,
SON OF LATE KARIDASAPPA,
AGED ABOUT 60 YEARS,
RESIDING AT GOPALA VILLAGE,
LAKKAVALLI HOBLI, TARIKERE TALUK,
CHIKAMAGALURU DISTRICT-577129
12. SRI. LAXMIKANTHA,
SON OF SAGANAPPA,
AGED ABOUT 30 YEARS,
RESIDING AT KITTURU RANI CHENNAMMA LAYOUT,
4TH CROSS, RANGANATHA NILAYA,
JANNAPURA, BHADRAVATHI TOWN,
SHIVAMOGGA DISTRICT-577301

...RESPONDENTS

(BY SRI. G.LAKSHMEESH RAO, ADVOCATE FOR R1 TO R7
AND R9
R8 AND R10 ARE SERVED



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NOTICE TO R11 AND R12 ARE DISPENSED WITH V/O/D:
09/03/2026)

THIS CRP FILED U/S. 115 OF CPC PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 03.01.2026, ON IA NO. XXVII IN OS NO. 247/2015 UNDER ORDER 23 RULE 1 R/W SEC. 151 OF CPC, 1908 PASSED BY THE PRINCIPAL CIVIL JUDGE AND JMFC AT TARIKERE, CHIKKAMAGALURU (ANNEXURE A).

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed aggrieved by the orders dated 03.01.2026 passed in I.A No.27 in OS.No.247/2015 by the Principal Civil Judge & JMFC at Tarikere, Chikkamagaluru, the plaintiff is before this Court.

2. The facts of the case are that the petitioner before this Court is the plaintiff. He has filed a suit seeking to set aside the sale deeds dated 27.11.1986, 01.12.1986 and 21.02.1992, executed by Defendant No. 6 in favour of Defendant Nos. 1, 2, 4 and 5, and to declare that the plaintiff is the absolute owner of the Suit Schedule Properties. The suit was filed in the year 2015; thereafter, the petitioner has filed the instant application under Order XXIII Rule 1 R/w Section 151 CPC, praying to



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permit the plaintiff to withdraw the suit with liberty to file a fresh suit on the same cause of action. It is the case that the suit suffers from formal defects, and the cause pleaded and the evidence led are also insufficient to meet all the defences taken in the written statement. Further, certain developments and proceedings are pending in respect of the subject matter of the suit. Hence, they have sought permission, which came to be dismissed by the impugned order.

3. The trial Court, while dismissing the application, observed that when an application is filed under Order XXIII, Rule 1 CPC, the plaintiff must satisfy the Court that there exists a formal defect in the suit due to which the plaintiff may fail in the suit, or that there are sufficient grounds for giving permission to withdraw the suit and file a fresh suit. With this provision of law in mind, it becomes necessary to delve into the merits of the application. The trial Court observed that the contents of the application or the affidavit in support of the application do not disclose the existence of any formal defect in the suit due to which the plaintiff may fail in the suit. The plaintiffs appear to have vaguely stated that the defendants



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have set up the claim of ownership over the suit schedule property. A reading of the defendants' written statement will disclose that the said defence was taken way back in the year 2016 itself. Despite this, no suitable amendment was sought to the plaint. There is also no explanation as to why the plaintiffs did not seek an amendment to the plaint to include such comprehensive relief. The plaintiff has failed to provide sufficient reasons for withdrawing the suit with liberty to file another suit on the same cause of action. The trial Court observed that it cannot permit the plaintiff to withdraw the suit and file a fresh suit on the same cause of action. Further, the Court observed that the plaintiffs have failed to show that the application can be maintained in law. The application is highly belated, and there is no effort on the part of the plaintiff to explain the formal defects at an earlier point in time. Such being the case, the defendants would certainly cause hardship if liberty were given to the plaintiff to file a fresh suit on the same cause of action. Therefore, the trial Court has dismissed the application.



4. Learned Counsel appearing for the petitioner submits that the order passed by the trial Court is contrary to Order XXIII Rule 1 read with Section 151 CPC. It is submitted that the Court has failed to appreciate that the petitioner has specifically treated the existence of formal defects in the suit, as well as subsequent developments affecting the subject matter, which squarely fall within the ambit of Order XXIII Rule 1(3A) and 1(3B) of the CPC. It is argued that the trial Court has rejected the application without recording any findings as to whether the defects pleaded were formal in nature or whether the refusal of permission would result in serious prejudice to the petitioner. It is stated that the reasons recorded by the Court are contrary to the scope of enquiry under Order XXIII Rule 1 of the CPC. It is further submitted that the impugned order defeats the very object and purpose of Order XXIII Rule 1 CPC, which is to avoid multiplicity of proceedings and to ensure that disputes are adjudicated on the complete and correct cause of action, including subsequent events. It is submitted that if the impugned Order is allowed to stand, it will result in a great miscarriage of justice, necessitating intervention of this Court.



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Notice to R-11 and R-12 is dispensed with by Order dated 09.03.2026. R-8 and R-10 are served, but no vakalath is filed.

5. Learned counsel appearing for R-1 to R-7 and R-9 submits that the trial Court has rightly dismissed the application. The suit was filed in the year 2015. Now, after almost a decade, the present application is filed. The trial Court was right in holding that the petitioner has not stated proper reasons. When the Court has rightly refused to allow the application and there are no grounds to interfere with the orders passed by the trial Court.

6. Having heard the learned counsels on either side, perused the material on record. Before proceeding with the matter, it is appropriate to look at Order XXIII Rule 1 of CPC. Order XXIII Rule 1 of CPC reads as follows:

1. Withdrawal of suit or abandonment of part of claim.—

(1) At any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim:

Provided that where the plaintiff is a minor or other person to whom the provisions contained in rules 1 to 14 of Order XXXII extend, neither the



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suit nor any part of the claim shall be abandoned without the leave of the Court.

- (2) An application for leave under the proviso to sub-rule (1) shall be accompanied by an affidavit of the next friend and also, if the minor or such other person is represented by a pleader, by a certificate of the pleader to the effect that the abandonment proposed is, in his opinion, for the benefit of the minor or such other person.***
- (3) Where the Court is satisfied,—***
- (a) that a suit must fail by reason of some formal defect, or***
- b) that there are sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject matter of suit or part of a claim,***
- It may, on such terms as it thinks fit grant the plaintiff permission to withdraw from such suit or such part of the claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of the claim.***
- (4) Where the plaintiff—***
- (a) abandons any suit or part of claim under sub-rule (1), or***
- (b) withdraws from a suit or part of a claim without the permission referred to in sub-rule (3), he shall be liable for such costs as the Court may award and shall be precluded from instituting any fresh suit in respect of such subject-matter or such part of the claim.***
- (5) Nothing in this rule shall be deemed to authorise the Court to permit one of several plaintiffs to abandon a suit or part of a claim under sub-rule (1), or to withdraw, under sub-rule (3), any suit or part of a claim, without the consent of the other plaintiff.***

In light of the provision, this Court has to look at the affidavit filed in support of the IA. It is stated that the contesting defendants, in their written statement, have denied the right, title and possession over the suit schedule property and have



claimed to be in possession of the said properties. These contesting defendants have also contended that the suit schedule property was sold to discharge the earlier debts of Thimmanna. They have also contended that Saganappa had bequeathed the suit schedule property to the defendants, and that the suit is not maintainable in view of earlier proceedings. It has also been observed that the suit is defective and that a simple suit for declaration, without further relief, is not maintainable. Hence, it is stated that the suit is suffering from normal defects, the cause pleaded and the evidence led are not sufficient to meet all the defences, and there are subsequent developments in the pendency of the proceedings in respect to the subject matter of the suit, and the plaintiff will be put to irreparable loss if the permission is not accorded.

7. The suit is of the year 2015, and the written statement is filed in the year 2016. The application was filed on 18.08.2025, when the suit was set down for arguments. As per Order XXIII Rule 1 of the CPC, the Court has to be satisfied that there is some formal defect and that there are sufficient grounds for allowing the plaintiff to institute a fresh suit. In this



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case, a suit was filed, and all the objections were raised by the defendants immediately. Now, after almost a decade, the petitioner wants to withdraw the suit. Except for stating that there are formal defects, the nature of the formal defects is not stated. Immediately after the defendant denied the plaintiff's title, the plaintiff had an opportunity to amend his written statement, but he did not choose to do so. He then dragged the matter on till 2025, and in the year 2025 he came up with an application. As rightly observed by the trial Court, there are no convincing reasons with regard to any formal defects, and this is not a provision which will allow the petitioner to cover up the latches. As rightly observed, the nature of the formal defects is not being stated. This Court has also perused the affidavit filed in support of the IA. The petitioner is not able to provide a one reason for considering an application under Order XXIII Rule 1 of CPC. The trial Court has rightly rejected the application and this Court finds no reasons to interfere with the order passed by the trial Court.

8. Accordingly, this Court is passing the following:



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ORDER

- i. The civil revision petition is ***dismissed***.
- ii. Pending I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

TS
List No.: 1 Sl No.: 55