



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE JAYANT BANERJI

WRIT PETITION NO.5719 OF 2026 (GM-CPC)

BETWEEN:

SRI DILEEPA,
AGED ABOUT 48 YEARS,
S/O RAMAKRISHNAPPA,
CHOWDAPPA COMPOUND,
CHOWDESHWARI NAGAR,
LAGGERE MAIN ROAD,
LAGGERE, BENGALURU-560 058.

...PETITIONER

(BY SRI.UMESH.M.N., ADVOCATE)

AND:

1. SMT.PANKAJA,
W/O NAGABUSHAN,
D/O RAMAKRISHNAREDDY,
AGED ABOUT 40 YEARS,
R/AT NO.8, SADASHIVAIAH LAYOUT,
NEAR GOUTHAM BOOK STORE,
THINDU MAIN ROAD, VIDYARARAYA POST,
BANGALORE-560 097.

2. SRI.RAMAKRISHNA REDDY
@ RAMAKRISHNAPPA,
S/O LATE CHOWDAPPA,
AGED ABOUT 75 YEARS,
CHOWDAPPA COMPOUND
CHOWDESHWARI NAGAR,
LAGGERE MAIN ROAD,
LAGGERE, BANGALORE-560 058.

3. SRI.H.P.KRISHNASHETTI,
S/O H.V.PUTTAIAHA SHETTI,

Digitally
signed by
KAVYA G
Location:
High Court
of Karnataka



- AGED ABOUT 60 YEARS,
R/AT NO.10/8, 14TH MAIN,
SUBRAMANYANAGARA,
BANGALORE-560 021.
4. SMT.RENUKAMMA,
W/O SIDDALINGAIAH,
AGED ABOUT 45 YEARS,
R/AT NO.25/A,
(C.M.C 541/A) 3RD F CROSS,
CHOWDESHWARI NAGAR,
LAGGERE, PEENYA POST,
BANGALORE-560 058.
5. SRI.PARAMESH,
S/O MALLAIAH,
AGED ABOUT 29 YEARS,
R/AT H.B.SHETTAHALLI VILLAGE,
YADIYUR HOBLI, KUNIGAL TALUK,
TUMKUR DISTRICT-572 142.
6. SRI.CHANDRAKUMAR,
AGED ABOUT 55 YEARS,
S/O S.B.GUDDAIAH,
R/AT NO.91/81, 1ST CROSS,
2ND MAIN ROAD,
ANNAPOORNESHWARI LAYOUT,
R.H.C.LAYOUT, NAGARABHAVI,
BANGALORE-560 072.
7. SRI.ESHWARACHARI,
S/O SRI. SHYAMACHAR,
AGED ABOUT 60 YEARS,
R/AT NO.425, 5TH CROSS,
BEHIND KANTHAPPA BUILDING,
CHOWDESHWARINAGARA,
BENGALURU-560 058.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING ISSUE A WRIT,
DIRECTION OR ORDER IN THE NATURE OF (A) CERTIORARI
SETTING ASIDE THE IMPUGNED ORDER DATED 28.07.2025
PASSED ON INTERIM APPLICATION NO. 6 FILED BY THE



PETITIONER UNDER SECTION 151 CODE OF CIVIL PROCEDURE, SEEKING DIRECTION TO RESPONDENT NO.1 TO ADD THE SCHEDULE PROPERTY TO THE PLAINT SCHEDULE IN O.S.NO. 8097/2019 PENDING BEFORE THE XX CITY CIVIL AND SESSIONS JUDGE (CCH-32), BENGALURU, VIDE ANNEXURE-E WHEREBY THE TRIAL COURT HAS DISMISSED THE SAID APPLICATION AND CONSEQUENTLY ALLOW THE SAID APPLICATION ETC.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI

ORAL ORDER

Heard learned Counsel for the petitioner.

2. In a suit for partition filed by the plaintiff/respondent No.1, the petitioner who is defendant No.2, has mentioned in his written statement regarding property bearing Site No.12 being part of the property in respect of which property, partition ought to be effected. In furtherance thereto an application for amendment bearing I.A.No.6 was filed seeking for a direction to the plaintiff to include Item No.5 to the plaint schedule. Item No.5 is a piece and parcel of Site No.12.

3. By means of the impugned order, the application has been rejected holding that the inclusion of an additional



property in the plaint schedule effectively amounts to amending the plaint which can only be done by the plaintiff. The Court held that defendant No.2 is at liberty to assert his claim over the said property in his written statement and seek appropriate reliefs by way of counter claim if so advised.

4. In a suit for partition, though the defendants are arrayed as such, however all parties may be interested in partition of the suit schedule properties. Therefore rejection of the application *prima-facie* does not appear to be proper.

5. In the objection filed by the plaintiff to the aforesaid IA, it is stated as follows:

"Plaintiff begs to file the following objections to the application filed by the Defendant No.2 U/s 151 of the Code of Civil Procedure

- 1. It is submitted that the above application lack bonafides, bereft of merits, is speculative and requires to be dismissed in limine.*
- 2. It is submitted that the Defendant is misusing and abusing the process of this Hon'ble Court.*
- 3. It is submitted that in the above case, the 1st Defendant has filed a detailed Written Statement and the same has been adopted by the 2nd Defendant.*
- 4. It is submitted that in paragraph 17 of the Written statement filed by the 1st Defendant, a contention has been raised in that the property bearing site No.12, Assessment No.152 of Laggere Village, Yeshwanthpur Hobli, Bangalore North Taluk, measuring East to West 30ft North to South 40ft,*



also requires to be included in the above suit to effect the partition.

- 5. It is submitted that when such a Written Statement is already filed and adopted by the Defendant No.2, the question of the Defendant No.2 once again coming with an application in the nature of seeking a direction to include the said property as item No.5, in the Schedule does not arise. It is for the Defendants to prove that the said property is also a Joint Family and it is also available for partition etc.*
- 6. It is submitted that if the above application is allowed, Plaintiff will be put to great hardship and injury. On the other hand if the above application is dismissed no injury or hardship will be occasioned to the Defendant No.2.*
- 7. For the reasons stated by the Defendant No.2 the question of considering the above application does not arise.*
- 8. All other allegations which are not expressly admitted herein are hereby expressly denied as false and incorrect,*

Wherefore the Plaintiff prays that this Hon'ble Court be pleased to dismiss the above application with costs, in interest of justice."

6. In the aforesaid objection, the plaintiff has not specifically denied that the property sought to be included as Item No.5 in the schedule is not a joint family property.

7. A Division Bench of the Madras High Court in the case of ***Solavaiammal v. Ezhumalai Goundar***¹ considered the question whether under Order 6, Rule 17 of

¹ 2011 SCC OnLine Mad 2161 : (2012) 1 CTC 159: 2012 AIR CC 778



the Civil Procedure Code, amendment of the Plaint in a Partition Suit can be allowed at the instance of the Defendants. After considering the judgments of the Supreme Court in ***Revajeetu Builders and Developers v. Narayanasamy and sons***², ***Vidyabai v. Padmalatha***³, ***B.K. Narayana Pillai v. Parameswaran Pillai***⁴, and other judgments, the Court observed as follows:

"16. While an amendment is sought, the Court has to see whether such amendment is imperative for proper and effective adjudication of the case, the amendment is bona fide or mala fide and in case such amendment is ordered, whether any prejudice would be caused to the other party which cannot be ultimately compensated in terms of money. The Court must also consider as to whether in the event the amendment is refused, it may lead to injustice or multiple litigation. One more principle to be followed while considering the request for amendment is as to whether it would change the character or nature of the case.

17. In a Suit for partition, in the event the Plaintiff has included only certain properties as if they are available for partition and leave some other properties which are also available for partition, the request of the Defendant in such event to include the left out properties also in the Plaint schedule would not in any way amount to altering or changing the nature or character of the Suit, as such an amendment is

² 2009 (10) SCC 84

³ 2009 (2) SCC 409

⁴ 2000 (1) SCC 712



also necessary for an effective adjudication of the case and to avoid multiplicity of proceedings.

18. It is argued that in the event some of the properties which are available for partition are not included in the Plaint schedule, the decree would be invalid on the ground of partial partition. However, it must be kept in mind that in such event, a further Suit has to be filed either at the instance of the Plaintiff or Defendant to include all the properties which are available for partition. In order to avoid such a situation, in partition Suit, the Court could certainly entertain an Application for amendment to include the properties which are left out and it cannot be said that in the event the amendment Petition is dismissed, the decree would be invalid for partial partition. Hence, we hold that in a suit for partition, Application for amendment at the instance of either party to the Suit is maintainable under Order 6, Rule 17 of the Civil Procedure Code. We may also refer to the judgment of the Apex Court in Shub Karan Bubna alias Shub Karan Prasad Bubna v. Sita Saran Bubna, 2009 (12) Scale 259, wherein the Apex Court has observed that a decree in partition Suit enures to the benefit of all the co-owners and it is sometimes said that there is really no judgment-debtor in a Partition Suit.

19. However, in an Application for amendment, the Court has to prima facie satisfy itself as to whether the properties are available for partition or not, as a detailed adjudication on the claim is improper. If there is a dispute over the inclusion of properties by the Plaintiff contending that those properties are not available for partition, the Court is certainly entitled to reject the Application for amendment on that ground. In such event, the only course open to the Defendant is to file a Suit for Partition by including those properties. As we have been called upon to answer the question as to whether the Application under Order 6, Rule 17 of the Civil Procedure Code seeking for amendment of the Schedule to the Plaint in a Partition Suit at the instance of the Defendant is maintainable or not, we answer the said issue by holding that while considering such an Application, it is for the Court to decide on the facts of each case. The reference is answered accordingly."



8. I find that the aforequoted judgment is applicable in the facts of the present case. In view of the aforesaid, the petition is **allowed**. The order impugned is set aside and the trial Court is directed to pass an order afresh on the aforesaid application in terms of the observations made above.

Sd/-
(JAYANT BANERJI)
JUDGE

KSR
List No.: 1 Sl No.: 16