



CNR: KAHC010334372022

NC: 2026:KHC:39335
W.P. No.14912/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 29TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.14912/2022 (GM-CPC)

BETWEEN:

SRI. P.K. JAYACHANDRA REDDY
S/O M.P. KRISHNA REDDY
AGED ABOUT 52 YEARS
R/AT NO.330, PANATHUR VILLAGE AND POST
VARTHUR HOBLI
BANGALORE EAST TALUK
BANGALORE DISTRICT - 560013.

...PETITIONER

(BY MISS SAI EESHA, ADV. FOR SRI. HARISH H.V. ADV.,)

AND:

1. DILIP KUMAR
S/O VENKATASWAMY REDDY
AGED ABOUT 47 YEARS
R/AT. NEKKUNDI DOMMASANDRA VILLAGE
SARJAPURA HOBLI, ANEKAL TALUK
BANGALORE DISTRICT - 562106.
2. SMT. PAPAMMA
W/O LATE KONDA REDDY
AGED ABOUT 77 YEARS.
3. SRI. MANJUNATHA
S/O LATE MUNIREDDY
AGED ABOUT 49 YEARS.
4. SRI. SRINIVAS
S/O LATE MUNIREDDY
AGED ABOUT 47 YEARS.

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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5. SRI. MURALI
S/O LATE MUNIREDDY
AGED ABOUT 45 YEARS.
6. SRI. VENKASWAMY REDDY
S/O LATE KONDAREDDY
AGED ABOUT 67 YEARS.

RESPONDENT NOS.2 TO 6 ARE
R/AT NEKKUNDI DOMMASANDRA VILLAGE
SARJAPURA HOBLI, ANEKAL TALUK
BANGALORE DISTRICT - 562106.

7. SMT. SHANTHAMMA
D/O LATE KONDA REDDY
AGED ABOUT 69 YEARS
R/AT BIKKANAHALLI VILLAGE
SARJAPURA HOBLI, ANEKAL TALUK
BANGALORE DISTRICT - 562106.
8. SRI. SRINIVASA REDDY
S/O LATE KONDAREDDY
AGED ABOUT 67 YEARS.
9. SRI. VENKATESH
S/O LATE KONDAREDDY
AGED ABOUT 64 YEARS.

RESPONDENT NOS.8 & 9 ARE
R/AT NEKKUNDI DOMMASANDRA VILLAGE
SARJAPURA HOBLI, ANEKAL TALUK
BANGALORE DISTRICT - 562106.

...RESPONDENTS

(BY SRI. G.M. SRINIVASA REDDY, ADV., FOR R1
V/O/DTD:27.07.2022, NOTICE TO R2 TO R9 IS D/W)



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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DTD 13.12.2021 PASSED BY THE PRL. SENIOR CIVIL JUDGE AND JMFC AT ANEKAL IN O.S.NO.85/2013 ON I.A.NO.5, FILED UNDER ORDER VI RULE 17 OF CPC, VIDE ANNEXURE-A AND CONSEQUENTLY DISMISS THE APPLICATION NO.5 FILED UNDER ORDER VI RULE 17 OF CPC ON THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE & ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 27.07.2026, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV ORDER

This writ petition is filed challenging the order dated 13.12.2021 passed in O.S.No.85/2013 by the Principal Senior Civil Judge and JMFC, Anekal (for short, 'the Trial Court').

2. Miss Sai Eesha, learned counsel appearing on behalf of Sri.Harish H.V., learned counsel for the petitioner submits that the respondent No.1 filed P & SC No.13/2010 seeking to issue probate in favour of the petitioner in respect of the Will of the deceased Kondareddy and for grant of such other reliefs. In the said proceedings, the



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respondent Nos.1 to 4, 6 to 8 filed objections stating that they have sold the suit schedule property in favour of the petitioner herein and the proceedings in P & SC No.13/2010 were closed and converted into O.S.No.85/2013. It is submitted that in the said suit, the petitioner has sought a declaration that the Will dated 20.09.2004 executed by Kondareddy, grandfather of the plaintiff, is valid and the plaintiff is the absolute owner by virtue of the said Will. It is further submitted that the plaintiff, immediately after converting the suit, did not array the petitioner as a party and hence, the petitioner sought for impleadment and was thereafter arrayed as defendant No.9. It is also submitted that the plaintiff filed an application seeking amendment of the plaint and for an additional prayer that the alleged sale deed in favour of the defendant No.9 dated 22.10.2009 is not binding on the plaintiff. The Trial Court allowed the said application without appreciating the fact that the relief sought in the application is time barred. It is also contended that the



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plaintiff was aware about the execution of the sale deed in favour of the petitioner way back in the year 2012 when the statement of objections were filed in P & SC No.13/2010 by the respondents. Hence, the Trial Court ought not have allowed the application for amendment. In support of her contentions, she placed reliance on the following decisions:

- (1) BASAVARAJ Vs. INDIRA AND OTHERS¹**
- (2) LIFE INSURANCE CORPORATION OF INDIA Vs. SANJEEV BUILDERS PRIVATE LIMITED AND ANOTHER²**
- (3) KHATRI HOTELS PRIVATE LIMITED AND ANOTHER Vs. UNION OF INDIA AND ANOTHER³**
- (4) REVAJEETU BUILDERS AND DEVELOPERS Vs. NARAYANASWAMY AND SONS AND OTHERS⁴**

Hence, she seeks to allow the petition.

¹ (2024) 3 SCC 705

² (2022) 16 SCC 1

³ (2011) 9 SCC 126

⁴ (2009) 10 SCC 84



3. *Per contra*, Sri.G.M.Srinivasa Reddy, learned counsel for the respondent No.1 supports the impugned order of the Trial Court and submits that the plaintiff initially filed P & SC No.13/2010. The same was converted to a suit and in the suit, when the petitioner-defendant No.9 was impleaded, the plaintiff came to know about the sale deed and hence, an application was filed seeking amendment of the plaint and also for an additional prayer that the sale deed in favour of the defendant No.9 is not binding on the plaintiff and the Trial Court has rightly considered and allowed the application. It is submitted that the issue of limitation can always be gone into by the Trial Court at the time of answering the other issues. In support of his contentions, he placed reliance on the following decisions:

**1. PANKAJA AND ANOTHER Vs. YELLAPPA (D) BY
LRS. AND OTHERS⁵**

**2. L.J.LEACH AND CO. LTD. AND ANOTHER Vs.
MESSRS. JAIRDINE SKINNER AND CO.⁶**

⁵ AIR 2004 SC 4109



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3. LIFE INSURANCE CORPORATION OF INDIA

referred *supra*

4. RAGHUNATH SHETTY Vs. KUSUMA J.SHETTY⁷

**5. SMT.S.PREMANAIK AND OTHERS Vs.
SMT.NAGARATHANA BAI AND OTHERS⁸**

**6. SHRI SRINIVASA AND OTHERS Vs. DR.GANGE
GOWDA AND ANOTHER⁹**

Hence, he seeks to dismiss the petition.

7. I have heard the arguments of the learned counsel for the petitioner, the learned counsel for the respondent No.1 and perused the material available on record.

8. The respondent No.1-plaintiff has filed P & SC No.13/2010 before the Principal District Judge, Bengaluru Rural District, Bengaluru, seeking to issue probate in favour of the petitioner in respect of the Will of the deceased Kondareddy and in the said proceedings, the respondent Nos.1 to 4, 7 and 8 filed statement of

⁶ AIR 1957 SC 357

⁷ LAWS(KAR)-2023-8-1670

⁸ W.P.No.32341/2025 dt. 05.01.2026

⁹ W.P.No.9930/2024 dt. 11.11.2025



objections on 20.06.2012. In the said statement of objections, the respondents have specifically stated that the respondent No.1 and her family members have sold the property in favour of one Sri.P.K.Jayachandrareddy, son of Sri.M.P.Krishnareddy on 22.10.2009 by executing a registered sale deed after receipt of the sale consideration amount. It is required to be noticed that the said P & SC proceedings were closed in view of the said objections.

9. The respondent filed a suit in O.S.No.85/2013 on 24.01.2013 seeking the relief of declaration that the Will dated 20.09.2004 executed in favour of the plaintiff is valid and the plaintiff is the absolute owner in possession of the suit schedule property. In the said suit, the plaintiff filed an application to implead the petitioner-defendant No.9 as a party to the suit by making an assertion that the defendant No.9 is the purchaser of the property. The said application was filed on 28.02.2013 which came to be allowed. The respondent No.1-plaintiff filed an application



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in I.A.No.5 under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the CPC'), seeking to amend the plaint. In support of the said application, the plaintiff had deposed that he had preferred P and SC case seeking survival certificate and the same was pending on the file of the Senior Judge and JMFC, Anekal, and in the said case, the respondents filed objections stating that they have already alienated the property in favour of the proposed defendant No.9 herein and after adjudication of the matter, the Court directed the parties to file a civil case. Hence, the amendment is sought and the said amendment would not change the cause of action and does not take away the jurisdiction of the Court. The said application was opposed by the defendant No.9. The Trial Court, under the impugned order allowed the application by recording the reason that the defendant No.9 was impleaded in the suit later and the amendment is necessary.



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10. It is required to be noticed that the proposed amendment is sought for a declaration that the sale deed dated 22.10.2009 executed by the defendant Nos.1 to 8 in favour of the defendant No.9 is not binding on the plaintiff. It is further required to be noticed that the said aspect of execution of the sale deed dated 22.10.2009 in favour of the defendant No.9 by the defendant Nos.1 to 8 was within the knowledge of the plaintiff in the year 2012 when the respondent Nos.1 to 4, 7 and 8 filed objections in P and SC No.13/2010 clearly stating that they have sold the suit schedule property in favour of the defendant No.9.

11. It is required to be noticed that the plaintiff filed an application to implead the petitioner-defendant No.9 in the suit on the ground that the defendant No.9 is the purchaser of the property and the said application was filed on 28.02.2013 and even from the said date, the plaintiff had the knowledge about the purchase of the property by the defendant No.9-petitioner herein.



However, the application for amendment of plaint was filed on 18.08.2019 and an additional prayer was sought to declare the registered sale deed dated 22.10.2009 executed by the defendant Nos.1 to 8 in favour of the defendant No.9, as not binding on the plaintiff. It is also required to be noticed that the proposed amendment is an amendment sought prior to the commencement of the trial.

12. It would be useful to refer to paragraph 71 of the decision of the Hon'ble Supreme Court in the case of ***LIFE INSURANCE CORPORATION OF INDIA***, referred *supra*, which reads as under:

"71. *Our final conclusions may be summed up thus:*

71.1. *Order 2 Rule 2CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order 2 Rule 2 CPC is, thus, misconceived and hence negatived.*



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71.2. *All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order 6 Rule 17 CPC.*

71.3. *The prayer for amendment is to be allowed:*

71.3.1. *If the amendment is required for effective and proper adjudication of the controversy between the parties.*

71.3.2. *To avoid multiplicity of proceedings, provided*

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment do not seek to withdraw any clear admission made by the party which confers a right on the other side, and

(c) the amendment does not raise a time-barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

71.4. *A prayer for amendment is generally required to be allowed unless:*

71.4.1. *By the amendment, a time-barred claim is sought to be introduced, in which case the fact that the claim would be time-barred becomes a relevant factor for consideration.*



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71.4.2. The amendment changes the nature of the suit.

71.4.3. The prayer for amendment is mala fide, or

71.4.4. By the amendment, the other side loses a valid defence.

71.5. In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

71.6. Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

71.7. Where the amendment merely sought to introduce an additional or a new approach without introducing a time-barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

71.8. Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

71.9. Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for



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amendment could be allowed and the issue of limitation framed separately for decision.

71.10. *Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.*

71.11. *Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi [Vijay Gupta v. Gagninder Kr. Gandhi, 2022 SCC OnLine Del 1897].)"*
(emphasis supplied)



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13. In the case of **PANKAJA AND ANOTHER** referred *supra*, at paragraphs 15 to 17, it is held as under:

"15. *This Court in the case of L.J. Leach and Co. Ltd. v. Jardine Skinner and Co. [AIR 1957 SC 357] has held: (AIR p. 362, para 16)*

"16. It is no doubt true that courts would, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the court to order it, if that is required in the interests of justice."

16. *This view of this Court has, since, been followed by a three-Judge Bench of this Court in the case of T.N. Alloy Foundry Co. Ltd. v. T.N. Electricity Board [(2004) 3 SCC 392] . Therefore, an application for amendment of the pleading should not be disallowed merely because it is opposed on the ground that the same is barred by limitation, on the contrary, application will have to be considered bearing in mind the discretion that is vested with the court in allowing or disallowing such amendment in the interest of justice.*

17. *Factually in this case, in regard to the stand of the defendants that the declaration sought by*



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the appellants is barred by limitation, there is dispute and it is not an admitted fact. While the learned counsel for the defendant-respondents pleaded that under Entry 58 of the Schedule to the Limitation Act, the declaration sought for by the appellants in this case ought to have been done within 3 years when the right to sue first accrued, the appellant-plaintiff contends that the same does not fall under the said entry but falls under Entry 64 or 65 of the said Schedule of the Limitation Act which provides for a limitation of 12 years, therefore, according to them the prayer for declaration of title is not barred by limitation, therefore, both the courts below have seriously erred in not considering this question before rejecting the prayer for amendment. In such a situation where there is a dispute as to the bar of limitation this Court in the case of Ragu Thilak D. John v. S. Rayappan [(2001) 2 SCC 472] has held: (SCC p. 472)

"The amendment sought could not be declined. The dominant purpose of allowing the amendment is to minimise the litigation. The plea that the relief sought by way of amendment was barred by time is arguable in the circumstances of the case. The plea of limitation being disputed could be made a subject-matter of the issue after allowing the amendment prayed for."



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14. In the case of **L.J.LEACH AND CO. LTD. AND ANOTHER** referred *surpa*, at paragraph 16, it is held as under:

"16. That would entail the dismissal of this appeal, but the plaintiffs have applied to this Court for amendment of the plaint by raising, in the alternative, a claim for damages for breach of contract for non-delivery of the goods. The respondents resist the application. They contend that the amendment introduces a new cause of action, that a suit on that cause of action would now be barred by limitation, that the plaintiffs had ample opportunity to amend their plaint but that they failed to do so, and that owing to lapse of time the defendants would be seriously prejudiced if this new claim were allowed to be raised. There is considerable force in the objections. But after giving due weight to them, we are of the opinion that this is a fit case in which the amendment ought to be allowed. The plaintiffs do not claim any damages for wrongful termination of the agreement, Ext. A, by the notice dated 13-6-1945. What they claim is only damages for non-delivery of goods in respect of orders placed by them and accepted by the defendants prior to the termination of the agreement by that notice.



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Clause 14 of the agreement expressly reserves that right to the plaintiffs. The suit being founded on Ext. A, a claim based on Clause 14 thereof cannot be said to be foreign to the scope of the suit. Schedule E to the plaint mentions the several indents in respect of which the defendants had committed default by refusing to deliver the goods, and the damages claimed are also stated therein. The plaintiffs seek by their amendment only to claim damages in respect of those consignments. The prayer in the plaint is itself general and merely claims damages. Thus, all the allegations which are necessary for sustaining a claim for damages for breach of contract are already in the plaint. What is lacking is only the allegation that the plaintiffs are, in the alternative, entitled to claim damages for breach of contract by the defendants in not delivering the goods."

15. The decision in the case of **BASAVARAJU** referred *supra*, at paragraph 16, it is held as under:

"16. In the case in hand, the compromise decree was passed on 14-10-2004 in which the plaintiffs were party. The application for amendment of the plaint was filed on 8-2-2010 i.e. 5 years and 03 months after passing of the compromise decree, which is sought to be



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challenged by way of amendment. The limitation for challenging any decree is three years (reference can be made to Article 59 in Part IV of the Schedule attached to the Limitation Act, 1963). A fresh suit to challenge the same may not be maintainable. Meaning thereby, the relief sought by way of amendment was time-barred. As with the passage of time, right had accrued in favour of the appellant with reference to challenge to the compromise decree, the same cannot be taken away. In case the amendment in the plaint is allowed, this will certainly cause prejudice to the appellant. What cannot be done directly, cannot be allowed to be done indirectly."

16. In the case of **KATRI HOLTELS PVT. LTD. AND ANR.** referred *supra*, at paragraph 30, it is held as under:

"30. While enacting Article 58 of the 1963 Act, the legislature has designedly made a departure from the language of Article 120 of the 1908 Act. The word "first" has been used between the words "sue" and "accrued". This would mean that if a suit is based on multiple causes of action, the period of limitation will begin to run from the date when the right to sue first accrues. To put it differently,



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successive violation of the right will not give rise to fresh cause and the suit will be liable to be dismissed if it is beyond the period of limitation counted from the day when the right to sue first accrued."

17. In the case of **REVAJEETU BUILDERS AND DEVELOPERS** referred *supra*, at paragraph 63, it is held as under:

"Factors to be taken into consideration while dealing with applications for amendments

63. *On critically analysing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment:*

(1) whether the amendment sought is imperative for proper and effective adjudication of the case;

(2) whether the application for amendment is bona fide or mala fide;

(3) the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) refusing amendment would in fact lead to injustice or lead to multiple litigation;



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(5) whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; and

(6) as a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application."

18. It is also required to be noticed that the petitioner had filed an additional written statement pursuant to the amendment of the plaint and in the said written statement, at paragraph 5, a specific plea of limitation is raised. Considering the enunciation of law laid down by the Hon'ble Supreme Court in the aforesaid decisions, I am of the considered view that the amendment sought in the plaint is a pre-trial amendment and the defence of limitation is required to be considered by the Trial Court by framing an additional issue as to whether the relief of declaration that the registered sale deed dated 22.10.2009 is time barred or not and thereafter, is required to record its finding. In view of the specific assertion of plea of limitation with regard to the



second prayer of declaration, I am of the considered view that the proposed amendment shall be effected from the date of filing the application for amendment and not relate back to the date of the suit.

19. For the aforementioned reasons, I proceed to pass the following:

ORDER

- (i) The writ petition is ***dismissed***.
- (ii) The impugned order dated 13.12.2021 passed on I.A.No.5 in O.S.No.85/2013 by the Principal Senior Civil Judge and JMFC, Anekal, is upheld.
- (iii) The amendment shall be effected from the date of filing the application for amendment and not relate back to the date of filing of the suit.
- (iv) The Trial Court shall frame an additional issue on limitation with regard to the relief of



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declaration that the registered sale deed dated
22.10.2009 is time barred or not.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 1 SI No.: 2