



CNR: KAHC010404812023

NC: 2026:KHC:39639
WP No. 17295 of 2023

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. 17295 OF 2023 (GM-CPC)

BETWEEN:

SMT. VIJAYALAKSHMI
W/O R SUBRAMANI,
AGED ABOUT 56 YEARS,
R/AT NO. 293, MASTI LAYOUT,
BANGARPET ROAD,
NEAR RTO OFFICE
KOLAR - 563 101

...PETITIONER

(BY SRI. HEGDE RAMAKRISHNA S., ADVOCATE)

AND:

1. MUDASSIR ASLAM KHAN
AGED ABOUT 43 YEARS,
S/O SABIR KHAN
R/AT CHIKKACHANNAPPA WATER WORKS,
M.B. ROAD, KOLAR - 563 101
2. MOHAMMED SHA FAISAL
AGED ABOUT 41 YEARS,
S/O MOHAMMED MUSTAQ
R/AT DURGESH MOHALLA
KOLAR - 563 101
3. SRI. V. MANJUNATH S/O. N. VENKATESH
SINCE DECEASED BY LRS

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka



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- 3a. SMT. H.M. MANJULA
W/O. LATE MANJUNATH
AGED ABOUT 48 YEARS
- 3b. KUM. JEEVANA M.
D/O. LATE MANJUNATH
AGED ABOUT 26 YEARS
- 3c. YESHVANTH M.
S/O. LATE MANJUNATH
AGED ABOUT 25 YEARS

ALL ARE RESIDENTS OF DHARMARAYANAGAR
BANGARAPET ROAD
KOLAR - 563 101

AMENDMENT IS CARRIED OUT VIDE ORDER
OF COURT DATED 17.07.2026

...RESPONDENTS

(BY SRI. PRUTHVI RAJ N.M., ADVOCATE FOR R1
SRI. RAMESH KUMAR R.V., ADVOCATE FOR R2
SRI. RAHUL S. REDDY, ADVOCATE FOR R3(A TO C))

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO-ALLOW THE WP, SET
ASIDE THE IMPUGNED ORDER ON IA NO. 6 UNDER ORDER VI
RULE 17 R/W SEC 151 CPC (ANNEXURE-A) AND ALSO ORDER
ON IA NO. VII UNDER ORDER I RULE 10 R/W SEC 151 CPC
(ANNEXURE-B) DATED 26/06/2023, IN O.S. NO. 674/2013
PASSED BY THE III ADDL. CIVIL JUDGE AND JMFC KOLAR.



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THIS PETITION, COMING ON FOR ORDERS, 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 26.06.2023 passed on I.A.No.6 and I.A.No.7 in O.S.No.674/2013 by the III Additional Civil Judge and JMFC, Kolar (hereinafter referred to as the 'trial Court' for short).

2. Sri Ramakrishna Hegde, learned counsel appearing for the petitioner/defendant submits that the petitioner is the defendant in O.S.No.674/2013 filed by respondent Nos.1 and 2 seeking the relief of judgment and decree by granting permanent injunction. In the said suit, the respondent No.3 filed I.A.No.7 under Order I Rule 10 read with Section 151 of the Code of Civil Procedure (for short 'CPC') seeking to implead himself as additional plaintiff to the suit. The plaintiffs filed I.A.No.6 under



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Order VI Rule 17 read with Section 151 of the CPC seeking amendment of the plaint. The trial Court, under the impugned orders dated 26.06.2023, allowed both the applications.

3. It is submitted that respondent Nos.1 and 2 filed the suit, and within one month from the date of filing of the suit, the entire property was sold in favour of respondent No.3. Now, respondent No.3 is seeking impleadment to the suit, and the plaintiffs are seeking to amend the plaint by seeking a declaration that respondent No.3, the purchaser, is the absolute owner of the property, which is impermissible.

4. It is further submitted that the relief of declaration sought by the plaintiffs is barred by the law of limitation and that the cause of action shown to file the suit for injunction is something different. The entire cause of action would change if the amendment is allowed. Hence, he seeks to allow the petition by setting aside the impugned order.



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5. *Per contra*, Sri Rahul S Reddy, learned counsel for respondent Nos.3(a) to 3(c) supports the order of the trial Court and submits that the issue of limitation is a mixed question of law and fact, which is required to be gone into by the trial Court. He further submits that the application for amendment of the plaint has been filed by the plaintiffs at the pre-trial stage and as a matter of course, the said amendment is required to be allowed, which has been rightly considered by the trial Court and allowed the applications. The same does not call for any interference. Hence, he seeks to dismiss the writ petition.

6. I have heard the arguments of the learned counsel for the petitioner, learned counsel for the respondents and meticulously perused the material available in record.

7. Respondent Nos.1 and 2 filed a suit in O.S.No.674/2013 initially seeking the relief of permanent injunction. Thereafter, the plaintiffs filed I.A.No.6 under Order VI Rule 17 of the CPC seeking to amend the plaint



by incorporating an additional prayer for declaration that plaintiff Nos.1 and 2 are the absolute owners of the suit schedule property and that, as the GPA holder of Sri Venkataramanappa and his son Sri Venkatachalapathy till 25.11.2013, and subsequently Sri V. Manjunath, is the absolute owner and the person in possession of the suit schedule property. The said application was opposed by the defendant.

8. It is to be noticed that respondent No.3 filed I.A.No.7 under Order I Rule 10 read with Section 151 of the CPC seeking to implead himself in the suit on the ground that he is the purchaser of the suit schedule property from the plaintiffs under a registered sale deed dated 25.11.2013. The trial Court, under the impugned order dated 26.06.2023, allowed both the applications.

9. The primary contention of the learned counsel for the petitioner is that the relief of declaration cannot be sought by the plaintiffs as they have sold the property in favour of respondent No.3 during the pendency of the suit.



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Hence, respondent No.3 is not a bona fide purchaser, and the principle of *lis pendens* applies.

10. It is further contended that the relief of declaration sought is beyond the period of limitation, as the sale deed executed by the plaintiffs in favour of respondent No.3 is dated 25.11.2013, whereas the application seeking amendment was filed in the year 2017, which is clearly barred by the law of limitation.

11. In my considered view, the aforesaid issue of limitation is required to be gone into by the trial Court, as the same is a mixed question of law and fact. It is also required to be noticed that though the application for amendment appears to have been belated, the issue of limitation is required to be gone into by the trial Court. Hence, the application for amendment of the pleading shall come into effect from the date of filing of the application for amendment and not from the date of institution of the suit.



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12. With the aforesaid clarification and also making observation that, respondent No.3 claims to be the purchaser of the suit schedule property from plaintiff Nos.1 and 2. Therefore, he is a necessary and proper party to the suit. The issue as to whether the plaintiffs can maintain the suit after having sold the property in favour of respondent No.3 and the sale is during the pendency of the suit is also required to be gone into by the trial Court while deciding the suit.

13. With the aforesaid observations, I proceed to pass the following:

ORDER

- a) The writ petition is ***disposed of*** by upholding the order of the trial Court, making it clear that the application in I.A.No.6 for amendment of the plaint is allowed from prospective date i.e. from the date of filing of the application for



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amendment and not from the date of institution of the suit.

- b) The trial Court is directed to frame additional issue on limitation with regard to the prayer for declaration and try the same along with the other issues.
- c) The trial Court shall endeavour to dispose of the suit as expeditiously as possible.
- d) It is made clear that orders on both the applications shall take effect from the date of filing of the respective applications.

No orders as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

SHS
List No.: 1 Sl No.: 9