



CNR: KAHC010428162026

NC: 2026:KHC:36985
WP No. 19612 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 19612 OF 2026 (GM-CPC)

BETWEEN:

SRI B.R.BALAKRISHNA
S/O.LATE.B.RAMASWAMY,
AGED BOUT 72 YEARS,
R/AT NO.96, 1ST MAIN ROAD,
SESHADRIPURAM,
BENGALRU-560 020

...PETITIONER

(BY SRI. SHRISHAIL A HUBLI, ADVOCATE)

AND:

1. SRI B R RAJASHEKAR
SINCE DECEASED BY HIS LRS

A) SMT. SOWBHAGYA
W/O.LATE.B.R.RAJASHEKAR,
AGED BOUT 72 YEARS,
R/AT NO. 12/1, (NEW 23)
R.V.LAYOUT,
BENGALURU-560 020

2. SRI. R.BALAJI
S/O.LATE.B.R.RAJASHEKAR,
AGED ABOUT 53 YEARS,
R/AT NO. 12/1, (NE NO.23)
R.V.LAYOUT, KUMARAPARK WEST,
BENGALURU-560 020

3. SMT.R.SUMA,



CNR: KAHC010428162026

NC: 2026:KHC:36985
WP No. 19612 of 2026

D/O.LATE.B.R.RAJASHEKAR,
W/O.D.V.MURALI,
AGED BOUT 55 YEARS,
R/AT NO.94, 1, 1ST MAIN ROAD,
SHESHADRIPURAM,
BENGALURU-560 020

4. SMT. SARASWATHAMMA
SINCE DECEASED BY HER LRS.
A) B. GIRISH,
S/O.LATE. BAIRAPPA,
AGED BOUT 50 YEARS,

5. SMT. BAHRATHI@PAPPU
D/O.LATE. BAIRAPPA
AGED BOUT 48 YEARS

6. B. ASHWIN KUMAR
S/O. LATE. BAIRAPPA,
AGED BOUT 46 YEARS,

ALL ARE RESIDING AT NO.95,
1ST MAIN ROAD, SESHADRIPURAM,
BENGALURU-560 020

7. SMT.C.V.RAJAMMA
W/O.RAJAGOPAL,
MAJOR IN AGE, NO.95/1,
1ST MAIN ROAD, SESHADRIPURAM,
BENGALURU-560 020

8. SRI.NARAYANA
LATE.LAKSHMANARAO,
MAJOR IN AGE
95/2, 1ST MAIN ROAD,
SESHADRIPURAM,
BENGALORE-560 020

9. SRI.D.N.NAGARAJ
FATHERS NAME NOT KNOWN



**NC: 2026:KHC:36985
WP No. 19612 of 2026**

CNR: KAHC010428162026

TO THE PLAINTIFF
MAJOR IN AGE,
95/2, 1ST MAIN ROAD,
SESHADRIPURAM,
BENGALORE-560 020

10. SMT. SHARADA SHETTY,
HUSBAND NAME NOT KNOWN
TO THE PLAINTIFF,
95/2, 1ST MAIN ROAD,
SESHADRIPURAM,
BENGALORE-560 020

...RESPONDENTS

(BY SRI.K.RAMESH BHAT, ADVOCATE FOR C/R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO WRIT OF
CERTIORARI TO QUASH THE IMPUGNED ORDER PASSED BY
THE LEARNED XXX ADDITIONAL CITY CIVIL JUDGE (CCH-31),
BENGALORE, IN O.S. NO. 9759/2014 DATED 6/4/2026, ON IA
NO.20 VIDE ANNEXURE-A AND ALLOW THE APPLICATION
FILED BY THE PETITIONER.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



**NC: 2026:KHC:36985
WP No. 19612 of 2026**

CNR: KAHC010428162026

ORAL ORDER

Aggrieved by the order dated 06.04.2026 passed in I.A.No.20 in O.S.No.9759/2014 by the XXX Additional City Civil Judge, Bengaluru, the petitioner/plaintiff is before this Court.

2. The petitioner herein, who is the plaintiff, filed O.S.No.9759/2014 seeking a permanent injunction restraining defendants Nos.2 to 6 from entering upon and concreting or meddling with the suit schedule property; a mandatory injunction directing defendants Nos.2 to 6 to withdraw, disconnect, and remove the illegal sanitary connections along with their independent sanitary chambers; and directing the 3rd defendant to pay a sum of Rs.50,044/- towards the expenses incurred in getting the sanitary connection rectified.

3. The plaintiff has filed I.A.No.XX under Order VI Rule 17 read with Section 151 of the CPC, seeking permission to amend the prayer and add the relief of declaration that the plaintiff is a joint owner of the suit schedule property along with defendant No.1. That application was rejected by the impugned order.



CNR: KAHC010428162026

4. While rejecting the application, the trial Court observed that it is not in dispute that the trial has already commenced, evidence has been let in by both parties, and the matter is at an advanced stage. The proviso to Order VI Rule 17 of the CPC clearly mandates that no application for amendment shall be allowed after the commencement of trial unless the Court concludes that, despite due diligence, the party could not have raised the matter before the commencement of trial. The trial Court observed that the plaintiff has not placed any material demonstrating due diligence. The facts relating to ownership were admittedly within the plaintiff's knowledge at the time of filing the suit. However, no declaratory relief was sought at that stage. Further, the proposed amendment seeks to convert the nature of the suit from one for a bare injunction to a declaration of title, which would require adjudication on entirely different issues and evidence. Such an amendment would inevitably prejudice the defendants and reopen the entire trial. Accordingly, the trial Court dismissed the application.

5. Learned counsel appearing for the petitioner/plaintiff submits that the trial Court failed to consider the settled



CNR: KAHC010428162026

**NC: 2026:KHC:36985
WP No. 19612 of 2026**

proposition of law regarding the amendment of pleadings. It is submitted that the absence of due diligence alone is not the ground to reject an application seeking to amend the plaint. It is submitted that the trial Court must consider amendments liberally and should not apply a hyper-technical approach when considering such applications. It is submitted that, if this amendment is not allowed, it would cause lot of hardship to the plaintiff. This aspect was not considered by the trial Court. Learned counsel submits that, during the course of the evidence, when the defendants denied the plaintiff's title, that was the time when the cause of action arose for the plaintiff to file the application seeking amendment. Hence, it is submitted that the impugned order may be set aside and the application seeking amendment may be allowed.

6. Learned counsel appearing for the respondents/ defendants submits that the trial Court has rightly passed an order and that no interference is called for.

7. Having heard the learned counsels on either side, perused the entire material on record. It is an undisputed fact that the suit was filed in 2014 seeking an injunction, and the



CNR: KAHC010428162026

defendants have filed their written statement and taken a stand. Based on the pleadings of the parties, the trial Court has framed the issues, and the evidence is let in. When the matter was posted for further cross-examination of the defendants, the plaintiff filed the present application to add a prayer for a declaration of title. This is almost 11 years after the date of institution of the suit. It is the submission of the learned counsel for the petitioner that, during the course of cross-examination, the defendants denied the title.

8. When the factual foundation is laid down in the written statement and the defendants have denied the plaintiff's title, the plaintiff ought to have sought for the relief long back. Declaratory relief cannot be sought after more than 11 years from the date of filing the suit. The trial Court has rightly observed that there is negligence on the part of the plaintiff. Learned counsel for the petitioner submits that the Apex Court has held that, if it does not change the nature of the suit and unless it is malafide, the application seeking amendments has to be considered. The law laid down by the Apex Court depends upon the facts and circumstances of each case. As far as the



NC: 2026:KHC:36985
WP No. 19612 of 2026

case on hand is concerned, without any reasonable cause and without showing any due diligence, the plaintiff has come up with an application for amendment of the plaint almost after 11 years, seeking declaratory relief, which is not permissible. Hence, this Court is passing the following order:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 32