



CNR: KAHC010436522023

NC: 2026:KHC:46794
WP No. 18507 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 18507 OF 2023 (GM-CPC)

BETWEEN:

1. THIPPESHAPPA
SON OF HANUMAPPA,
AGED ABOUT 73 YEARS,
AND RESIDING AT
ADRAKATTE VILLAGE,
KASABA HOBLI,
HOSADURGA TALUK,
CHITRADURGA - 577 501

... PETITIONER

(BY SRI. UDAY KUMAR REDDY, ADVOCATE FOR
SRI ABHINAY Y T., ADVOCATE)

AND:

1. MARULASIDDAPPA
SON OF (LATE) BASAPPA,
AGED ABOUT 48 YEARS,
2. ESHWARAPPA
SON OF LATE BASAPPA,
AGED ABOUT 50 YEARS,

BOTH ARE AGRICULTURIST,
RESIDING AT HEGADIHALLI VILLAGE,
AJJAMPURA HOBLI,
TARIKERE TALUK,
CHIKKAMAGALURU - 577 101

... RESPONDENTS

(BY SRI. VIJAYAKUMAR S C., ADVOCATE FOR R1 AND R2)

Digitally
signed by
PRAKASH N
Location:
HIGH COURT
OF
KARNATAKA



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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ORDER DATED 21ST OF FEBRUARY 2023 PASSED ON IA NO 4 IN OS NO. 256 OF 2015 BY THE LEARNED ADDL. CIVIL JUDGE AND JMFC AT TARIKERE (ANNEXURE G) AND CONSEQUENTLY ALLOW IA NO. 4.

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

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

The present petition is filed by the plaintiff calling in question the correctness of the order passed in O.S.No.256/2015 whereby application filed under Order 6 Rule 17 CPC, by the plaintiff seeking for amendment of the schedule has been rejected.

2. The facts made out are that the plaintiff has filed a suit for injunction in O.S.No.256/2015. It was contended that the plaintiff was cultivating the schedule land since 1977 on the basis of temporary saguvali chit. It was further contended that the defendants who had property on the eastern side were interfering with the



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plaintiff's possession and were attempting to encroach upon the plaintiff's property. The description of the schedule property reads as follows:

ದಾವ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತು

ತರೀಕೆರೆ ತಾಲ್ಲೂಕು, ಅಜ್ಜಂಪುರ ಹೋಬಳಿ, ಹೆಗಡಿಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ.34 ರಲ್ಲಿರುವ 2-00 ಎಕರೆ ಜಮೀನಿನ ಚಕ್ಕುಬಂಧಿ:

ಪೂರ್ವಕ್ಕೆ	:	ಪ್ರತಿವಾದಿಗಳ ಜಮೀನು
ಪಶ್ಚಿಮಕ್ಕೆ	:	ಶಂಕ್ರಪ್ಪನವರ ಜಮೀನು
ಉತ್ತರಕ್ಕೆ	:	ಮಹೇಶ್ವರಪ್ಪನವರ ಜಮೀನು
ದಕ್ಷಿಣಕ್ಕೆ	:	ರೇವಣ್ಣನವರ ಜಮೀನು

3. It is stated that the defendants had filed their written statement on 07.12.2015 and at paragraph 6 and 7 of the written statement had specifically taken a contention regarding improper description of the property. The averments made in paragraph 6 and 7 of the written statement reads as follows:

6. ಈ ದಾವೆಗೆ ಯಾವುದೇ ವ್ಯಾಜ್ಯ ಕಾರಣವು ಇರುವುದಿಲ್ಲ. ವಾದಿಯು ದಾವ ಷೆಡ್ಯೂಲ್‌ನಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ ಅಸ್ತಿ ಇರದೇ ಇರುವ ಕಾರಣ ಮತ್ತು ಅವರು ತಿಳಿಸಿರುವ ಚಕ್ಕುಬಂದಿಯು ಸಹ ಸುಳ್ಳಾಗಿರುತ್ತದೆ. ಈ ದಾವೆಯನ್ನು ಸಲ್ಲಿಸಲು ವಾದಿಯು ದಾವ ಷೆಡ್ಯೂಲ್‌ ಸ್ವತ್ತನ್ನು ಮತ್ತು ವ್ಯಾಜ್ಯ ಕಾರಣವನ್ನು ಸೃಷ್ಟಿ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ.



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7. ವಾದಿಯು ಸಲ್ಲಿಸಿರುವ ನ್ಯಾಯಾಲಯದ ಶುಲ್ಕವು ಸರಿ ಇರುವುದಿಲ್ಲ. ವಾದಿಯು ದಾವದಲ್ಲಿ ಹೇಳಿರುವಂತಹ ಆಸ್ತಿ ಎಲ್ಲಿ ಬರುತ್ತದೆ ಎಂದು ವಾದಿಗೆ ತಿಳಿದಿರುವುದಿಲ್ಲ. ಮತ್ತು ದಾವ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತು ಎಲ್ಲಿದೇ ಎಂಬುದೇ ಗೊತ್ತಿರುವುದಿಲ್ಲ. ಆದಕಾರಣ ವಾದಿಯು ದಾವೆಯಲ್ಲಿ ಕೇಳಿರುವ ಪರಿಹಾರವನ್ನು ಪಡೆಯಲು ಅರ್ಹನಾಗಿರುವುದಿಲ್ಲ.

4. It is made out from the averments and submissions made that I.A. for temporary injunction was initially allowed but was set aside in M.A.No.20/2016 disposed of on 06.03.2020. The said Miscellaneous Application was filed by the defendants. It is necessary to notice that the court in M.A.No.20/2016 has also touched upon the aspect of possession. The relevant observations made in M.A.No.20/2016 at para 16 reads as follows:

" ... As rightly contended by the defendants/appellants, if at all the Government had granted land to plaintiff permanently and plaintiff was put in possession of the suit land certainly the Tahasildar would have prepared a sketch in respect of the land granted to him. Such sketch prepared if any at the time of grant would have disclosed the clear cut boundaries of the plaintiff's property. In the absence of such material documents, very grant and possession of the plaintiff as mentioned above is doubtful.



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Under such circumstances, conclusions of the trial court that the plaintiff has made out prima-facia case and balance of convenience lies in his favour and he will be put greater hardship and injury if the application is not allowed are wrong. Therefore, in the opinion of this court that, the order of the Trial Court warrants interference by the instant Court."

5. As rightly contended by the defendants/appellants, if at all the Government had granted land to the plaintiff permanently, the plaintiff was put in possession of the said land, certainly, the Tahsildar would have prepared Sketch in respect of the land granted to him and the sketch would have disclosed clear-cut boundaries to the said land. The said order in M.A.No.20/2016 was passed on 06.03.2020. It is also a matter of record that stage of evidence has commenced and the suit is at the stage of cross-examination of defendants.

6. An application for amendment came to be filed by the plaintiff on 24.11.2022. The proposed amendment



to the schedule property was to the effect that on the Northern side, the property description should read as Ramanna's property and on the Southern side, it should read as Hoolihalli Boundary road. The said application was objected to by the defendants. The plaintiff had contended that the mistake was due to typographical error insofar as mentioning the boundaries and that is the only reason assigned in the affidavit filed in support of the application.

In the objections filed, the defendants have specifically contended that the observations made in M.A.No.20/2016 regarding ambiguity in identification. It was also contended that even at the time of filing of affidavit by way of evidence no mention was made regarding error in the boundaries and application was filed with unreasonable delay of seven years.

7. The trial court as per the order on I.A.No.4 has noticed the description of the property at the time of filing of the plaint. It has also referred to the order passed in



M.A.No.20/2016 and observed that the proposed amendment has the effect of changing the location of the suit schedule property. The trial court also observed that no document is produced as to the basis on which the proposed amendment is sought for.

8. The trial court has observed that there is absence of due diligence and there is no explanation as to why said aspect could not have been raised before commencing trial.

9. Heard both sides.

10. It is to be noticed that cross-examination of the plaintiff has already concluded. Copy of deposition and cross-examination of plaintiff has been produced. In the cross-examination of P.W.1 on 15.06.2023, he has specifically deposed regarding the boundaries. It is stated that on the Eastern side lies land of Marula Siddappa, on the Western side lies the land of Shankarappa, on the



Northern side lies the land of Revanna and road, and on the Southern side lies the property of Ramanna.

11. The proposed amendment is to the effect that on the Northern side, it is Ramanna's land and on the Southern side, Hoolihalli boundary road. The proposed amendment is even contrary to the deposition recorded before the Court. If that were to be so, plaintiff cannot be permitted to overreach and take away the admissions made during evidence regarding the boundaries. The proposed amendment runs contrary to the deposition of the plaintiff. Further, the Court in the miscellaneous appeal also has observed regarding the absence of sketch and documents as also the absence of documents to indicate the proposed boundaries now sought to be amended.

12. Though the learned counsel for the plaintiff - petitioner would contend that the change in boundaries would not affect or prejudice the defendants' rights,



however, if there is an ambiguity in the schedule, such ambiguity is also insofar as boundaries mentioned during evidence and the said aspect cannot be overcome by way of amendment.

13. Accordingly, petition is ***rejected***. The Court does not find any reason to interfere with the well reasoned order passed on I.A.IV for amendment. However, it is made clear that the observations made are only for the purpose of disposal of the application and would not come in the way of findings to be recorded during trial. The trial Court to expedite trial of the suit.

SD/-
(S SUNIL DUTT YADAV)
JUDGE

NP/VP