



CNR: KAHC010443202019

NC: 2026:KHC:47752
WP No. 49859 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 49859 OF 2019 (GM-CPC)

BETWEEN:

1. SRI. P.B. SATYANARAYANA
S/O LATE P B BOMME GOWDA,
AGED ABOUT 76 YEARS,
R/O PANJANAGANAHALLI,
MANANGI THANDA, KASABA HOBLI-572137
SIRA TALUK, TUMKUR TALUK.
2. SRI P B RAMEGOWDA
AGED ABOUT 51 YEARS,
WORKING AS MEDICAL PRACTITIONER
AT PHC CENTRE, CHELUR,
GUBBI TALUK, TUMKUR DISTRICT.
3. SRI P S BHUPATIGOWDA
AGED ABOUT 48 YEARS,
R/O PANJANAGANAHALLI,
MANANGI THANDA, KASABA HOBLI-572137
SIRA TALUK, TUMKUR TALUK.
4. SRI P S PRAKASH GOWDA
AGED ABOUT 46 YEARS,
R/O PANJANAGANAHALLI,
MANANGI THANDA,
KASABA HOBLI-572137

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA



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SIRA TALUK, TUMKUR TALUK.

...PETITIONERS

(BY SRI. KESHAV R AGNIHOTRI.,ADVOCATE)

AND:

1. SMT. ANNAPURNA
W/O T VENKATESH,
AGED ABOUT 66 YEARS,
R/O NO.157, SRI MANJUNATH NILAYA,
BINNAMANGALA, ARISINAKUNTE POST,
NELAMANGALA TALUK,
BENGALURU DISTRICT 562123
2. SRI AYYANAIIKA
S/O IMBYANAIIKA,
SINCE DEAD BY LRs
- 2(a) SMT. MOTHU BAI,
WIFE, AGED ABOUT 60 YEARS.
- 2(b) DHAKYANAIIKA,
SON AGED ABOUT 40 YEARS
- 2(c) BADDUNAIIKA
SON, AGED ABOUT 38 YEARS
- 2(d) JAGADISH NAIKA
SON, AGED ABOUT 36 YEARS
ALL ARE R/O MANANGI THANDA,
KASABA HOBLI, SIRA TALUK,
TUMKUR DISTRICT.
3. SRI GOVINDE GOWDA
S/O BOMME GOWDA,



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AGED ABOUT 64 YEARS,
SINCE DECEASED BY LR_s

3a) SMT. LALITHAMMA
72 YEARS

3b) BHOOPATHI BOMMEGOWDA
54 YEARS

3c) DEVARAJE GOWDA
50 YEARS

ALL ARE R/O MANANGI THANDA,
KASABA HOBLI,
SIRA TALUK, TUMKUR DISTRICT.

4. SMT PARWATHAMMA
W/O RAME GOWDA
AGED ABOUT 61 YEARS,
R/O MANANGI THANDA,
KASABA HOBLI, SIRA TALUK,
TUMKUR DISTRICT.

5. SRI HARISH
S/O SHIVANNA,
AGED ABOUT 29 YEARS,
R/O MANANGI THANDA,
KASABA HOBLI, SIRA TALUK,
TUMKUR DISTRICT.

...RESPONDENTS

(BY SRI. VIVEK S.,ADVOCATE FOR R1;
R4, R5, P'SD R2(C), P'SD R2(D) P'SD R3(A), P'SD R3(B)
P'SD R3(C) SERVED AND UNREPRESENTED
V/O. DATED 27.05.2024 NOTICE VIDE H/S SERVED TO R2(B)



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THIS WP FILED UNDER 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DT.24.09.2019 VIDE ANNEXURE-H, PASSED ON I.A.NO.32 IN O.S.NO.49/07 AND THUS ALLOW THE ABOVE WRIT PETITION.

THIS PETITION, COMING ON FOR FINAL HEARING, 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 24.09.2019 passed in OS No.49 of 2007 by the Senior Civil Judge, Sira (hereinafter referred to as "the trial Court" for short).

2. Sri.Keshav R Agnihotri, learned counsel appearing for the petitioners submits that, respondent No.1/plaintiff had filed an application seeking amendment of the plaint after conclusion of the trial, which came to be allowed by the trial Court erroneously without appreciating the fact that, on an earlier occasion the application filed by the plaintiff for amendment of the plaint was allowed and nothing has



prevented the plaintiff to seek amendment of the pleading as sought in the present application. It is submitted that, the Court Commissioner's report was available before the Court on 04.07.2011 and the present amendment is based on such report and allowing such an amendment would change the cause of action, structure of the suit and nature of relief sought in the suit and ought not to have allowed the application at the fag end of the proceedings. Hence, he seeks to allow the petition.

3. Per contra, Sri Vivek.S, learned counsel for respondent No.1/plaintiff supports the impugned order of the trial Court and submits that, by oversight in the earlier application, the said amendment could not be sought and by the proposed amendment, which is nothing but an enlargement of the fact and relief, specifically with regard to the mandatory injunction and possession, the present amendment was sought. Hence, he seeks to dismiss the petition.



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

5. Respondent No.1 had filed a suit in OS No.49 of 2007 seeking the relief of declaration of title that, the plaintiff is the absolute owner of the suit schedule property, for permanent injunction restraining the defendants from interfering with the possession and enjoyment of suit schedule property, for mandatory injunction to remove the encroachment and delivery of possession and also for the relief of mesne profit.

6. The suit schedule property consists of three items. The petitioner, arrayed as defendant No.4, filed detailed written statement denying the plaint assertion. The records indicate that, the trial Court appointed a Court Commissioner and report was submitted by the Commissioner. The plaintiff sought for amendment of the plaint, which came to be allowed by the trial Court on an



earlier occasion. Later, again, an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short referred to as 'the CPC') was filed seeking amendment of the plaint, by seeking to add certain sentences in the prayer column No.(b)(b), which came to be allowed by the trial Court, which is under challenge.

7. The proposed amendment indicates that the plaintiff intends to add a specific extent of encroachment in the suit schedule property and the assertion in the application is, that the proposed amendment, though sought belatedly, is more in the nature of clarification to the relief sought in the plaint. A perusal of the prayer in the plaint indicates that the relief of declaration, permanent injunction, mandatory injunction and delivery of possession is sought and the proposed amendment only specifies the alleged encroachment by the defendant and the said assertion is based on the Commissioner's Report. No doubt, the application is filed at a belated stage after



completion of the trial. However, the proposed amendment would neither change the cause of action nor change the relief sought in the plaint and no prejudice would be caused to the other side. In fact, the proposed amendment would aid the trial Court in considering the relief sought in the plaint for mandatory injunction and delivery of possession. Considering the aforesaid aspects, I do not find any error or perversity in the order impugned in the writ petition calling for interference. This Court cannot ignore the fact that the application for amendment is filed at the fag end of the proceedings, by which the proceedings are delayed and inconvenience has been caused to the petitioners herein. Hence, the application is required to be allowed on a further cost of Rs.5,000/-.

8. The writ petition is ***disposed of***. The impugned order is affirmed. The application for amendment filed by respondent No.1 is allowed subject to respondent No.1 paying an additional cost of Rs.5,000/- to petitioners. The



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trial Court shall endure to dispose of the suit as early as possible.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

rs
List No.: 1 Sl No.: 19