



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 20353 OF 2026 (GM-CPC)

C/W

WRIT PETITION NO. 20446 OF 2026 (GM-CPC)

IN WP No. 20353/2026

BETWEEN:

T. H. MURTHY
S/O. HANUMANNA
AGED ABOUT 45 YEARS
R/O ANTHARASANAHALLI VILLAGE
KASABA HOBLI
KUNIGAL TALUK-572 130

...PETITIONER

(BY SRI PAVAN KUMAR G., ADVOCATE)

AND:

JAYARAMAIAH
S/O. LATE GOVINDAIAH
AGED ABOUT 70 YEARS
R/O. ANTHARASANAHALLI VILLAGE
ARAKERE POST, KASABA HOBLI
TUMAKURU TALUK-572 106

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH IMPUGNED ORDER DATED 04.04.2026 PASSED BY THE I ADDL. SENIOR CIVIL JUDGE AND CJM, TUMAKURU IN O.S.NO. 808/2023 ON I.A. NO.2 UNDER ORDER 6 RULE 17 OF CPC AT ANNEXURE-A.

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Location: HIGH
COURT OF
KARNATAKA



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TUMAKUR TALUK-572 106

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH IMPUGNED ORDER DATED 4/4/2026 PASSED BY THE I ADDL. SENIOR CIVIL JUDGE AND CJM, TUMAKURU IN O.S. NO.808/2023 ON I.A.NO.3 UNDER ORDER 6 RULE 17 OF CPC AT ANNEXURE-A.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



ORAL ORDER

Aggrieved by the order dated 04.04.2026 in I.A.Nos.2 and 3 in O.S.No.808/2023 passed by the I Addl. Senior Civil Judge and CJM, Tumakuru, the petitioner/defendant in both the cases is before this Court.

2. The respondent herein has filed a suit for a declaration and an injunction. The suit is of the year 2023. When the matter came for the plaintiff's evidence, the plaintiff filed an IA seeking an amendment to the plaint. By way of this amendment, the petitioner seeks to add one paragraph, and the second prayer is to correct the boundaries of the suit schedule property; according to him, it is a typographical mistake. The trial Court by order impugned has allowed the IA. While allowing the I.A, the trial Court has observed that the burden lies on the plaintiff to prove the pleadings and the schedule of the property upon which he intends to have the declaratory reliefs. As such, it appears that both amendments sought under the applications are very much essential to maintain



the suit before the court. Merely because the plaintiff has not produced any documents corroborating the schedule of the property, the plaintiff is not disentitled to amend the plaint, as the burden lies upon him to substantiate it. However, both amendments will neither change the cause of action nor the nature of the suit. The amendment in respect of pleadings is in the form of an explanation, and the relief sought has been corrected by including the consequential relief of injunction. The Trial Court further observed that though the second application was filed when the case was set down for the evidence of the plaintiff, he has not let in evidence. Moreover, though the defendant has resisted both applications, he has not produced any contrary material to disbelieve the version of the plaintiff. That apart, if the applications are allowed, no hardship will be caused to the defendant. On the other hand, if the applications are not allowed, much hardship will be caused to the plaintiff, and the same cannot be compensated as it will non-suit the plaintiff. Accordingly,



the trial Court has allowed the application seeking amendment.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner is not aggrieved as far as amendment No.1 is concerned, but is more aggrieved by amendment No.2, whereby the plaintiff is completely changing the boundaries of the suit schedule properties. In that case, the entire nature of the suit will be changed, and that would cause prejudice to the defendant. This aspect was not appreciated by the trial Court. The trial Court ought not to have allowed the application. It is submitted that the order impugned needs to be set aside.

4. Having heard the learned counsel appearing on behalf of the petitioner, perused the material on record. The Trial Court finds that the plaintiff filed a suit seeking declaration and injunction stating that the property is ancestral and that they are the owners. Initially, certain



boundaries were mentioned in the plaint. Later, they stated that there was a typographical mistake regarding the boundary and sought to amend the plaint to reflect this change in their boundaries. Learned counsel for the petitioner submits that this would change the cause of the entire suit. This Court is not able to appreciate this submission. The evidence has not yet commenced in the suit. It is the case of the plaintiff that it is a typographical mistake while mentioning the schedule of the property. The burden lies on the plaintiff to prove his case, and this amendment is not brought to cover up any lapses on the part of the plaintiff. As rightly observed by the Court, if this amendment is not allowed, a lot of prejudice would be caused to the plaintiff. If it is allowed, there is no prejudice to the defendant. While considering the application under Order 6 Rule 17 CPC, the Court has to balance the interests of both the parties and look at the substantial interests of the parties. In those circumstances, this Court is of the view that the trial Court has rightly considered



and allowed the I.A, and this Court finds no reason to interfere. In that view of the matter, this Court is passing the following:

ORDER

- i. Accordingly, the writ petitions are ***dismissed.***
- ii. All pending I.As., in the writ petitions shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

PKN
List No.: 1 Sl No.: 28