



CNR: KAHC010463782026

NC: 2026:KHC:47701
WP No. 21082 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.21082 OF 2026 (GM-CPC)

BETWEEN:

1. SMT. RATHNAMMA
W/O LATE RAJANNA
AGED ABOUT 71 YEARS
R/A A NAGAMANGALA VILLAGE
KUNDANA HOBLI, DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT – 562 110
2. SRI. N R MANJUNATH
S/O LATE RAJANNA
AGED ABOUT 36 YEARS
R/A A NAGAMANGALA VILLAGE
KUNDANA HOBLI, DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT – 562 110
3. SRI. N R DILIP KUMAR
S/O LATE RAJANNA
AGED ABOUT 44 YEARS
R/A A NAGAMANGALA VILLAGE
KUNDANA HOBLI, DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT – 562 110

...PETITIONERS

(BY SRI. VAISHNAVI SHIVASHANKAR, ADVOCATE)

AND:

1. SRI. JAYARAMAIAH
S/O LATE NARAYANAPPA
AGED ABOUT 70 YEARS
R/A NAGAMANGALA VILLAGE

Digitally signed
by SUVARNA T
Location: HIGH
COURT OF
KARNATAKA



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KUNDANA HOBLI, DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT – 562 110

2. SRI. VIJAY
S/O JAYARAMAIAH
AGED ABOUT 40 YEARS
R/A NAGAMANGALA VILLAGE
KUNDANA HOBLI, DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT – 562 110
3. SMT. SHOBA,
D/O LATE RAJANNA,
W/O NANDAKUMARA,
AGED ABOUT 55 YEARS,
R/AT MANDUR VILLAGE,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU URBAN DISTRICT.
4. SMT. AMBIKA
D/O LATE RAJANNA,
W/O SHIVARAMA REDDY,
AGED ABOUT 40 YEARS,
R/AT ANEMADUGU VILLAGE,
BASHETTAHALLI HOBLI,
SIDLAGHATTA TALUK,
CHIKKABALLAPURA DISTRICT.

...RESPONDENTS

(BY SRI. SHIVAREDDY K. N, ADVOCATE FOR R1 & R2;
SRI. VARUN R R, ADVOCATE FOR R3 & R4)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER
DATED 03.08.2024 PASSED BY THE ADDL. SENIOR CIVIL
JUDGE & JMFC, DEVANAHALLI, IN O.S NO.859/2014 ON I.A.
NO.III AS PER ANNEXURE-A TO MEET ENDS OF JUSTICE; b)
ALLOW I.A NO.III FILED UNDER ORDER VI RULE 17 R/W
SECTION 151 CPC, PERMITTING AMENDMENT OF THE PLAINT



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TO INCLUDE ITEMS 3 TO 11 IN THE SUIT SCHEDULE AS PER ANNEXURE-B.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order dated 03.08.2024, passed in IA No.3 in OS No. 859/2014, on the file of the Additional Senior Civil Judge and JMFC, Devanahalli, the petitioners/plaintiffs are before this Court.

2. The suit is filed seeking partition. In the said suit, IA No.3 is filed under Order VI Rule 17 R/w Section 151 of CPC seeking an amendment to the plaint to insert Item Nos.3 to 11 of the properties. The affidavit filed in support of the application states that, at the time the suit was filed, the plaintiffs did not have the documents regarding the lands sought to be included in the plaint. The proposed Item Nos.3 to 11 of the suit scheduled properties are also ancestral and joint family properties, and the petitioners/plaintiffs have been in joint possession and enjoyment of Item Nos.3 to 11 of the suit



scheduled properties, having a legitimate right, title, interest, and possession over the same. However, at the time of filing the suit, due to oversight, the plaintiffs did not include Item Nos.3 to 11 of the suits scheduled properties. Subsequent to filing of the suit, enquiries were made, and the said lands and their location were identified. Based on that, they enquired with the Revenue Department and could trace out the RTC of the said lands in the year 2023.

3. The Trial Court, by the order impugned, has rejected the application. While rejecting the application, the Court has observed in Paragraph No.6 of the plaint that the plaintiffs have clearly stated that, during the lifetime of the grandfather of the plaintiff Nos.2 and 3, by name Sri. Narayanappa, there was a Panchayath parikath between the husband of the plaintiff No.1 and defendant No.1, as such, except the suit schedule properties all other properties were partitioned. It is also stated that the copies of the Panchayath parikath were produced before the Court.

4. The defendants have also taken the contention in the written statement that there was a partition dated



24.04.1989 between the children of Narayanappa. This shows that both parties admitted about the partition between the children of the late Narayanappa. The plaintiffs have included only two suit schedule properties and have clearly stated that all the properties have already been partitioned.

5. Learned counsel for the defendants have produced a copy of the alleged Panchayath parikath, which includes the proposed two scheduled properties. The plaintiffs have not produced even a single document showing that the properties proposed for inclusion in the schedule are joint family properties of the plaintiffs and the defendants. Moreover, the plaintiffs' counsel remained absent and also failed to address his arguments, which shows that the plaintiffs are not diligent in prosecuting the present case and application. The plaintiffs have not stated what prevented them from including the suit schedule properties at the time of filing the suit. They have merely stated that through close friends and relatives they came to know about the proposed properties and traced the RTCs pertaining to the same. However, the plaintiffs failed to produce the RTCs before this Court, and accordingly the Court



rejected the IA. Aggrieved thereby, the petitioners are before this Court.

6. On 27.07.2026, this Court granted an interim order. The Court recorded the petitioners' submission that the Court had prejudged the issue and concluded that it was already partitioned. While considering an application under Order VI Rule 17 R/w Section 151 of the CPC, such an exercise is not permissible.

7. Learned counsel appearing for the petitioners submits that when it is the case of the plaintiffs that certain other properties were not included and they are seeking an amendment to the plaint, the trial Court ought to have allowed the amendment.

8. It is submitted that whether the Panchayath parikath is acted upon, whether there was an earlier partition, or whether there was a partition among the plaintiffs are all matters for trial. When considering an application under Order VI Rule 17 CPC, the Court cannot go into all these issues. In fact, whether the petitioners will succeed in the suit itself has already been decided by the trial Court, and the trial Court has



prejudged all the issues, including the Panchayath parikath. She has relied on paragraph No. 71.2 of the judgment of the Hon'ble Apex Court in the case of ***Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and another***¹, which reads as follows:

"71.2 All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word 'shall', in the latter part of Order 6 Rule 17 CPC."

9. She also relied on another judgment of the Co-ordinate Bench of this Court in the case of ***Sri. C.Mohan Sonu Vs. Sri. H.R.Chandra @ Ramachandra and others***². Specifically, she relied on paragraph No.8 and the operative portion of the order, which reads as follows:

"8. It is trite that at the time of considering the application for amendment, the courts are not supposed to delve into the merits of the case. The Hon'ble Supreme Court in the case of Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and another, reported in (2022) SCC Online 1128:AIR 2020 SC 4256, has held that in normal circumstances the court should allow the applications filed for amendment of the pleadings unless the amendment changes the nature of the

¹ (2022) 16 SCC 1

² WP.No.4666/2023 dated 11.12.2025



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suit or the cause of action for the suit. The said approach is required to be done for avoiding multiplicity of litigation. In the said case, it is also observed that the court should avoid a hypertechnical approach while considering the application for amendment. The proposed amendment in the present case does not change the nature of the suit or the cause of action of the suit. The proviso to Order VI Rule 17 of CPC is not a complete bar for considering the application filed seeking amendment of the pleadings after commencement of trial. It is trite that to avoid multiplicity of litigations, the court should allow applications filed seeking amendment of the pleadings. Since defendant No.3 has raised a specific plea in his written statement that the suit is bad for non-joinder of all joint family properties, it appears that the present application was filed on behalf of the plaintiff. The Trial Court has failed to appreciate these aspects of the matter and has erred in rejecting the application. The inconvenience caused to defendant No.3 in view of the delay caused in filing the application can be compensated monetarily."

"ORDER

- i. The writ petition is allowed subject to payment of cost of Rs.5,000/- to defendant No.3;***
- ii. The impugned order dated 27.01.2023 on an application filed by the plaintiff/petitioner under Order VI Rule 17 read with Section 151 of the CPC, passed by LXIX Additional City Civil and Sessions Judge, Bengaluru in O.S.No.5008/2016 as per Annexure-E, is set aside and consequently, the prayer made in the application is granted;***
- iii. The plaintiff shall pay the cost imposed to the defendant No.3 on the next date of hearing before the Trial Court."***



10. Relying on this, it is submitted that the trial Court has failed to consider the scope of Order VI Rule 17 of CPC and ought to have allowed the same.

11. Learned counsel appearing for the respondent Nos. 1 and 2/defendant Nos.1 and 2 submitted that the trial Court had rightly considered the application and passed an order. He drew the attention of this Court to the plaint, particularly to paragraph Nos. 4, 5, and 6, which reads as follows:

"4. The plaintiffs submit that, the land bearing Sy.No.29 measuring to an extent of 1 acre 39 guntas and land bearing Sy.No.30 measuring to an extent of 0.20 guntas situated at Nagamangala Village, Kundana Hobli, Devanahalli Taluk, Bangalore Rural District, hereunder mentioned and hereinafter called as suit schedule properties. The suit schedule properties are the ancestral and joint family properties of the plaintiffs and defendants herein and the plaintiffs and defendants are in joint possession and enjoyment of the suit schedule properties.

5. The plaintiffs submit that, one by name Sri. Narayanappa who is the grandfather of plaintiff NO.2 and 3 is the prepositor of the joint family of the plaintiffs and defendants herein, the said Sri. Narayanappa during his life time he has acquired the suit schedule properties under grant in the order passed by the Thasildhar, Devanahalli Taluk under HOA on 84/1991-92. As per the said grant the katha has been mutated to the name of said Sri. Narayanappa vide mutation order MR.No.1/1992-93, as per the said mutation extract the revenue entries i.e., RTC has been also effected to the name of grandfather of the plaintiff No.2 & 3. The copy of



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the mutation extract in MR.No.1/1992-93 herewith produced for kind perusal of this Hon'ble court.

6. The plaintiffs submit that, during the lifetime of the grandfather of the plaintiff No.2 and 3 by name Sri. Narayanappa there was a Panchayath parikath between husband of 1st plaintiff and 1st defendant herein, as such except the suit schedule properties all other properties were partitioned between the husband of 1st plaintiff and 1st defendant herein. The copy of the Panchayath parikath and RTP No.31/989-90 herewith produced for kind perusal of this Hon'ble court."

12. Drawing the Court's attention to the said paragraphs, it is submitted that the plaintiffs themselves have produced the Panchayath Parikath. Furthermore, all the properties that the plaintiffs now seek to include in the plaint are those that fell to the share of the defendants. It is submitted that, as per the Panchayath Parikath, the properties that fell to the share of the plaintiffs were subsequently the subject of a registered Partition Deed, which the defendants placed before the Court.

13. It is submitted that, by way of an amendment, the plaintiffs cannot be permitted to place on record averments that are contrary to their own case. It is submitted that nowhere in the entire plaint do the plaintiffs deny the said Panchayath Parikath; in fact, it has been placed before the



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Court by the plaintiffs. The suit was filed in 2014, and the present amendment was filed in 2024. It is submitted that the trial Court has rightly considered and dismissed the application, and there are no grounds to interfere.

14. Learned counsel appearing for respondent Nos.3 and 4/defendant Nos.3 and 4, who are the daughters of plaintiff No.1, were impleaded in 2025 and have not filed a written statement to date. They have not appeared before the Trial Court but have appeared before this Court and submit that the trial Court has prejudged the issue in an application filed under Order VI Rule 17 CPC. Hence, an opportunity should have been given to them, and the writ petition has to be allowed.

15. Having heard the learned counsel on either side, perused the materials on record. The Court finds that where an application is filed under Order VI Rule 17 of CPC, the law is well settled that once an application is filed after the commencement of the trial, the burden lies on the plaintiffs to aver and prove that, despite due diligence, all such aspects could not be brought to the notice of the Court. In the IA filed in support of the application, the plaintiffs' case is that they are



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in possession of the properties now included, and that the property has been in joint possession. When a party is in joint possession of the property, the fact that the suit was filed in 2014 and the present amendment was filed in 2024 itself shows that there is no due diligence. Apart from due diligence, the plaintiffs themselves have placed the Panchayath Parikath before the Court, and it is also stated how the properties were partitioned. Nowhere in the plaint is it the case of the plaintiffs that the Panchayath Parikath has not acted upon or that there is any fraud. Now, the proposed item Nos.3 to 11 are the very same properties which are part of the Panchayath Parikath. The plaintiffs cannot be permitted to introduce a new case by way of the amendment only on the ground to avoid multiplicity of proceedings. The Court cannot allow an application, and the Court has to look into the facts and circumstances of each case. Once the petitioners make out a case for amendment, then the question of looking at the other aspects will arise. In the facts and circumstances, the trial Court has rightly dismissed the application, looking at the averments in the plaint, where the plaintiffs are introducing altogether new place. Accordingly, this



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Court finds no reason to interfere in the same. In that view of the matter, this Court is passing the following:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. Pending IAs., if any, in the petition shall stand closed.

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

BH
List No.: 1 Sl No.: 15