



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO.21789 OF 2023 (GM-CPC)

BETWEEN:

1. SHIVANNA
S/O LATE DODDAIAH,
AGED ABOUT 68 YEARS,
R/AT MYLANAHATTI VILLAGE,
HEBBUR HOBLI-572101
TUMKUR TALUK.

...PETITIONER

(BY SRI. JAGADEESH D.C., ADVOCATE)

AND:

1. PREMAKUMAR
S/O LATE DODDAIAH
AGED ABOUT 45 YEARS,
R/AT MYLANAHATTI VILLAGE,
HEBBUR HOBLI-572101
TUMKUR TALUK.

GANGANNA
SINCE DEAD BY HIS LRS.

2. SIDDALINGAMMA,
W/O LATE GANGANNA,
AGED ABOUT 68 YEARS,
R/AT MYLANAHATTI VILLAGE,
HALANOORU POST,
HEBBUR HOBLI-572101
TUMKUR TALUK.

Digitally signed by
DHANALAKSHMI
MURTHY

Location: HIGH
COURT OF
KARNATAKA



3. BASAVARAJU
S/O LATE DODDAIAH,
AGED ABOUT 62 YEARS,
R/AT MYLANAHATTI VILLAGE,
HEBBUR HOBLI-572101
TUMKUR TALUK.
4. SMT. GURUSIDDAMMA
W/O KARIYAPPA,
D/O LATE DODDAIAG
AGED ABOUT 57 YEARS,
R/AT KAMANAHALLI,
GOLLARAHATTI,
KOTHAGERE HOBLI,
KUNIGAL TALUK-572130.

...RESPONDENTS

(BY SRI. NAIK VENKATRAMAN NAGAPPA, ADVOCATE FOR R1;
R2 TO R4 - SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER DATED 16/08/2023 PASSED ON IA FILED BY D-2 U/O 6 RULE 17 OF CPC O.S. NO.631/2015 BY LEARNED II ADDL. CIVIL JUDGE AND JMFC AT TUMKUR, VIDE ANNEXURE-E AS THE SAME IS ILLEGAL AND UNSUSTAINABLE LAW AND CONSEQUENTLY ALLOW THE IA FILED U/O 6 RULE 17 OF CPC, FILED BY THE D-2 IN O.S NO.631/2015 VIDE ANNEXURE-D ON THE FILE OF LEARNED II ADDL. CIVIL JUDGE AND JMFC AT TUMKUR, AS PRAYED FOR WITH COST.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. In this writ petition, the petitioner-defendant No.2
has called in question the order dated 16.08.2023 passed



by the II Additional Civil Judge and JMFC, Tumakuru (hereinafter referred to as 'Trial Court' for short), in O.S.No.631/2015, whereby, the application filed by the petitioner-defendant No.2 under Order VI Rule 17 of the CPC, seeking amendment of the written statement has been rejected.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court in Original Suit.

3. Respondent No.1-plaintiff has filed a suit for partition and separate possession. Defendant No.2 filed a written statement on 16.01.2016, wherein it has categorically stated that except suit Item No.3, all other properties are joint family properties and that the plaintiff and defendant Nos.1 to 4 are having 1/4th share. Thereafter, on 10.04.2023, defendant No.2 filed an application under Order VI Rule 17 of the CPC seeking amendment of the written statement, contending that suit Item No.2 is also not a joint family property. The Trial Court by impugned



order dated 16.08.2023 rejected the application. Being aggrieved by the same, the present writ petition has been filed.

4. By way of amendment, a party cannot be permitted to withdraw an admission already made in the pleadings.

5. The Trial Court, after considering the judgment of the Apex Court in the case of **PIRGONDA HONGONDA PATIL vs. KALGONDA SHIDGONDA PATIL AND OTHERS** reported in **AIR 1957 SC 363**, has rightly rejected the said application. The relevant paragraphs Nos. 13, 14, and 15 of the Trial Court order are extracted below:

"13. The moot point before this court, to be answer is whether the proposed amendment to the written statement as contended by the defendant No.2 is essential for proper adjudication of the matter in the ends of justice. In order to answer the very point, this Court places reliance to Order 6 R- 17 of C.P.C. is relevant and same is extracted below:

"The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just and all such



amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."

The provision of law ratio is aptly applicable to the present case. By virtue of the supra cited provision of law, amendment may be permitted at any stage of the proceedings by the Court provided if it fulfill embargo as stipulated in order 6 R-17 of CPC.

*14. This Court also places reliance to ratio reported in **AIR 1957 SC 363** is relevant and the same is extracted below:*

"...The power under Rule 17 is entirely discretionary to be used judicially on consideration of the circumstances of each case. The rule allows, "at any stage", all amendments which satisfy two conditions (a) of not working injustice to the other side and (b) of being necessary for the purpose of



*determining the real question in controversy
between the parties.....”*

The upshot cited ratio is aptly applicable to the present case. The Court, if at all it has to allow the proposed amendment as sought for by the defendant No.2, then it must pass through the test of two conditions, which have been stipulated as per the supra cited Provision. At this juncture, this court places reliance to the written statement filed by the defendant No.2 and on cursory perusal of the same it is evident that the defendant No.2 has already admitted that the suit schedule property is also the ancestral property of the plaintiff and defendant No.2.

15. Never-the-less by way of the proposed amendment to the written statement of defendant No.2, defendant No.2 is trying to withdraw the admission made by him, in the earlier written statement filed by him. That as per the supra cited provision of law and ratio, if the same applied by this court, then the defendant No.2 if permitted to amend the written statement filed by him then this court having regard to the facts and circumstances of the case and also having regard to the written statement filed by the defendant No.2, this court is of the considered opinion that, it would cause injustice to the plaintiff since, the defendant



No.2 has admitted regarding item No.2 of the suit schedule property as his and plaintiff's ancestral property. Moreover, proposed amendment is not necessary for determining the real controversy in question into parties. Hence, for the upshot reasons and discussions, this Court answers point No.1 in the negative."

6. Therefore, this Court is of the opinion that there is no error or illegality in the order passed by the Trial Court.
7. Accordingly, this writ petition is ***dismissed***.
8. The Trial Court is directed to dispose of the suit, without being influenced by any observation made herein.

**Sd/-
(H.T. NARENDRA PRASAD)
JUDGE**