



CNR: KAHC010505572026

NC: 2026:KHC:41505
WP No. 23087 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 23087 OF 2026 (GM-CPC)

BETWEEN:

MRS.SHANTHI T PANDIYA
AGED ABOUT 71 YEARS,
W/O LATE TEJPAL P PANDIYA,
RESIDING AT NO. 10/4/1
KUMARA KRUPA ROAD,
BENGALURU-560 001

...PETITIONER

(BY SRI. S.K.MITHUN, ADVOCATE)

AND:

1. MR. BYRAPPA
SINCE DEAD BY LR'S

SMT. BYRAMMA
SINCE DEAD BY LR'S

MRS.SHASHIKALA
D/O LATE BYRAPPA,
AGED ABOUT 45 YEARS

2. MR.CHANDRASHEKAR
S/O LATE BYRAPPA
AGED ABOUT 44 YEARS

3. SMT.SUMA
D/O LATE BYRAPPA,
AGED ABOUT 43 YEARS

4. MR.PURUSHOTHAM

Digitally signed
by SUVARNA T

Location:
HIGH COURT
OF
KARNATAKA



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S/O LATE BYRAPPA,
AGED ABOUT 38 YEARS

ALL ARE RESIDING AT
THYAMAGONDLU VILLAGE,
THYAMAGONDLU HOBLI,
THYAMAGONDLU POST,
NELAMANGALA TALUK-562 132

5. SMT. LAKSHMAMMA
SINCE DEAD BY LR'S
MR.NATARAJU
S/O LATE LAKSHMAMMA
MAJOR,
RESIDING AT AGASARAHALLI VILLAGE,
KASABA HOBLI,
NELAMANGALA TALUK-562 123
6. MR.MANJUNATHA
S/O LATE LAKSHMAMMA
MAJOR,
RESIDING AT AGASARAHALLI VILLAGE,
KASABA HOBLI,
NELAMANGALA TALUK
7. MR. MUNIRAJAPPA
AGED ABOUT 65 YEARS,
S/O LATE BYRAPPA,
8. MR.G.B.GANGARAJU
AGED ABOUT 63 YEARS,
S/O LATE BYRAPPA
9. MR.SIDDAGANGAIAH,
AGED ABOUT 62 YEARS,
S/O LATE BYRAPPA
10. MR.NANJAPPA,
AGED ABOUT 55 YEARS,
S/O LATE BYRAPPA



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11. MR. KRISHNAPPA
AGED ABOUT 52 YEARS,

7 TO 11 ARE RESIDING AT
GJJAGADAHALLI VILLAGE,
DASANPURA HOBLI,
BANGALORE NORTH TALUK,
BANGALORE DISTRICT-562 123

...RESPONDENTS

(BY SRI.SHRIKANTH BADARADINNI, ADVOCATE FOR C/R9 TO 11)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OF CERTIORARI AND QUASH THE ORDER DATED 09/04/2026 PASSED IN O.S.NO. 416/2009 ON THE APPLICATION FILED BY THE PETITIONER UNDER ORDER VI RULE 17 OF CPC (I.A.NO. 15) BEFORE THE SENIOR CIVIL JUDGE AND JMFC AT NELAMANGALA, PRODUCED AT ANNEXURE-A.

THIS PETITION, 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 09.04.2026 passed in I.A.No.15, filed under Order VI Rule 17 of the CPC in O.S.No.416/2009, by the Senior Civil Judge and JMFC at Nelamangala, the petitioner/plaintiff is before this Court.

2. The petitioner/plaintiff had filed O.S.No.416/2009 seeking specific performance in the year 2009. In the year 2026, the plaintiff filed I.A.No.15 under Order VI Rule 17 of the



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CPC seeking amendment o the plaint. That application was dismissed by the impugned order.

3. While dismissing the application, the trial Court observed that the plaintiff has sought a declaration in the prayer column that the termination of the agreement of sale dated 07.10.1996, vide legal notice dated 20.01.1997, is illegal, invalid, and not binding on the plaintiff. A perusal of the plaint averments shows that the plaintiff's case is that the defendants and their father executed the agreement of sale dated 07.10.1996 in the presence of witnesses, and that her husband and she handed over the money many times and obtained receipts for the payments. Therefore, first, the plaintiff has to prove the agreement of sale dated 07.10.1996 before the Court, showing that the defendants executed the agreement in the presence of witnesses by receiving part of the sale consideration, and that she is always ready and willing to perform her part of the contract on the basis of the agreement of sale. But after adducing the evidence of both parties, the plaintiff has filed the present application seeking amendment of the plaint.



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4. It is observed that the proposed amendment discloses that the plaintiff is seeking to withdraw the admission made during the cross-examination of PW1. Further, a perusal of the order sheet and the material available on record shows that in the year 2006, a suit for specific performance of the contract was filed against the defendants, and already 19 years have passed. When the Court made efforts to record the evidence of the parties, the plaintiff filed the present application without arguing the matter on the merits. Further, a careful perusal of the pleadings and the proposed amendment shows that the said application filed by the plaintiff is barred by limitation, as it was filed after the lapse of 19 years. If the application is allowed, it would cause great hardship to the defendants rather than the plaintiff. Further, if the application is allowed, it would also cause injustice to the defendants rather than the plaintiff. Accordingly, the trial Court had rejected the application.

5. Learned counsel appearing for the petitioner/plaintiff submits that the amendment is crucial in the facts and circumstances of the case. It is submitted that the petitioner, who is the wife, was unaware of the notices and other aspects.



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Only the husband was aware of the same. After his death, she procured these documents and has filed the present application seeking amendment of the plaint. If the said amendment is not allowed, it would cause lot of prejudice to the plaintiff. These aspects were not appreciated by the trial Court. Mere delay in filing the application itself cannot be a ground for the trial Court to reject the application. It is submitted that if the amendment is allowed, the petitioner will co-operate with the case, and within a time-bound manner, the matter can be decided. Learned counsel further submits that after the order was passed, it was not made available to the petitioner and then he has come before this Court and sought an order from this Court, and in the meantime, the matter is posted for judgment. Hence, the said judgment will not apply to the facts and circumstances of the case.

6. Learned counsel appearing for respondent Nos.9 to 11 submits that the matter is posted for judgment. He relied on the Division Bench judgment of this Court which was later affirmed by the Full Bench in the case of ***Rabiya Bi Kassim M.***



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Vs. The Country Wide Consumer Financial Service Ltd.¹,

on paragraph No.9 which reads as follows:

"9. On consideration, we are of the opinion that once the matter has been finally heard and posted for judgment, as held by the Supreme Court in Arjun Singh's case (supra) nothing is required to be done by the Court except to pronounce the judgment, and therefore the decision in Laxminarayan Enterprises case is not helpful. Admittedly, Clause (4) of Order 18 Rule 2, of CPC has been deleted and therefore the respondent-plaintiff cannot take advantage of Laxmin Arayan's case in the facts of the given case. Even if we assume it for the sake of argument without accepting, in view of the amendment in CPC, as we find, the law relating to procedure in suits and civil proceedings are governed by CPC. The CPC has been amended from time to time. Recently also, in order to cut short the delays at various levels in disposal of civil cases, CPC was amended by the Amendment Act of 1999 with effect from 1.7.2002. In the facts of the given case, sufficient opportunity was given to the plaintiff to complete his evidence, but he has not availed the opportunity at appropriate time and thereafter his evidence was closed. The case was fixed for defendant's evidence and ultimately the case was heard and reserved for judgment on 20.6.2001. In our view, if the matter is reserved for pronouncement of judgment, such an application is not maintainable as otherwise it will defeat the very object of amendment in speedy disposal of the cases."

7. Relying on this, it is submitted that once the matter is posted for judgment, the question of deciding any other application does not arise. It is further submitted that the

¹ ILR 2004 Kar 2215



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application filed is belated, there is no due diligence, the trial Court had rightly dismissed the application, and there are no grounds to interfere.

8. Having heard the learned counsels on either side, perused the entire material on record. The suit is filed in the year 2009 seeking specific performance. The husband was contesting the matter, and according to the petitioner, the husband had died recently. Now, by virtue of this amendment, the petitioner seeks to place on record what transpired in the year 1996. After the amendment to CPC, once the trial has commenced, it is for the party who is seeking to amend the pleadings, to plead and prove that despite due diligence, the facts could not be brought to the notice of the Court at an appropriate time. Given that the evidence is already complete and the petitioner is now attempting to take an inconsistent turn from the earlier pleadings, this is not permissible. As rightly observed by the trial Court, it would cause a lot of prejudice to the defendants. In that view of the matter, this Court finds no reason to interfere. Hence, this Court is passing the following order:



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ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. All I.As. in this petition shall stand closed.

Sd/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 28