



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 24948 OF 2025 (GM-CPC)

BETWEEN:

SRI. B.N. BABU REDDY
SON OF LATE N. NARAYAN REDDY,
AGED ABOUT 70 YEARS,
SENIOR CITIZEN BENEFIT NOT CLAIMED
RESIDING AT NO.40, DODDABANASAWADI,
BENGALURU -560 043.

...PETITIONER

(BY SRI. T.N.VISWANATHA, ADVOCATE)

AND:

1. SRI. B.N.YEMA REDDY
SON OF LATE N. NARAYANA REDDY,
AGED ABOUT 69 YEARS,
RESIDING AT NO.852,
7TH 'A' MAIN ROAD, H.R.B.R. LAYOUT,
KALYANA NAGAR,
BENGALURU - 560 043

2. SRI. B.N. SADASHIVA REDDY,
SON OF LATE N. NARAYANA REDDY,
AGED ABOUT 65 YEARS,
RESIDING AT RAMAMURTHY NAGAR
MAIN ROAD, BEHIND BALDWIN SCHOOL,
BENGALURU - 560 043

...RESPONDENTS

(BY SRI.R.CHANDRAKUMAR, ADVOCATE FOR R1
NOTICE TO R2 IS DISPENSED WITH V/O/D: 07.01.2026)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT BY QUASHING THE IMPUGNED ORDERS DATED 13.06.2025 PASSED ON 1.A.NO.1 IN O.S. 4476/2010 ON THE FILE OF THE XVTH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU VIDE ANNEXURE -A.

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 orders passed on I.A.No.1 in O.S.No.4476/2010 dated 13.06.2025 passed by the XV Addl. City Civil and Sessions Judge, Bengaluru, the defendant is before this court.

2. The plaintiff filed a suit for partition in the year 2010. Now, the present application has been filed seeking an amendment to the plaint, which was allowed by the impugned order. While allowing the application, the trial Court considered the case of both the parties. The trial Court observed that the dispute between the parties can be adjudicated at the time of trial. Without a full-fledged trial, at this stage, this Court cannot presume that the properties are self-acquired properties of



defendant No.1 and his wife. No doubt, there are some corrections and clerical errors that crept into the plaint, which can generally be permitted to be amended. These amendments are often allowed, as they do not alter the fundamental nature of the suit and merely clarify the required corrections. Accordingly, the trial Court has allowed the I.A and permitted the plaintiff to carry out the necessary amendments.

3. Learned counsel appearing for the defendant submits that the suit was filed in the year 2010. Even before the defendant entered appearance, I.A. No. 4 was filed on 28.07.2010 seeking an amendment to the plaint, and that was allowed. It is submitted that it was allowed by amendment on 15.02.2020. learned counsel further submits that yet another application has been filed seeking amendment of the plaint, and the same has been disputed by them by filing their objections. It is submitted that the affidavit filed in support of the I.A. does not disclose any reasons for the plaintiff not having taken these grounds or for seeking amendment of the pleadings. After almost 14 years from the date of filing of the suit, the present I.A. No. 1 is filed seeking amendment of the pleadings. The trial court in a mechanical manner has allowed



the application. Though there is no pleading with regard to due diligence all these aspects were not considered by the trial court. He relied on the judgment passed by a Co-ordinate Bench of this Court in the case of **Venkatamma Namasivayam since dead by LR's and Ors Vs. Sri. K.Anil Kumar** arising out of **WP.No.16411/2025 dated 08.07.2025** in paragraph No. 13 and 14 which reads as follows:

"13. Insofar as the judgments relied on by the learned senior counsel for the petitioners with regard to the purport of Order VI Rule 17 CPC, there can no qualm about the principles laid down therein. He has placed heavy reliance upon the judgment in the case of DINESH GOYAL @ PAPPU v. SUMAN AGARWAL (BINDAL)⁶ wherein the Apex Court has held as follows:

"....

12. The question that we have to consider, in the above backdrop is whether the High Court fell in error in allowing the application seeking leave to amend pleadings, in contravention of the statutory language.

... ..

17. Any and all delays in judicial processes should be avoided and minimised to the largest extent possible, and should generally be, and are rightly frowned upon. However, not in all cases can delay



determine the fate of a Suit. The defendant submits that the time gap between submitting the written statement to the Suit and the presentation of the application seeking leave to amend is unexplained. If this argument of the defendant is accepted, the question of Will shall remain undecided or at best will be decided with great delay. The trial which has admittedly already commenced, would be stalled by way of a challenge to the framing of issues which, in turn, would not be in consonance with the object of Order VI Rule 17 of CPC which is aimed at preventing multiplicity or multiple avenues of litigation, subsumed under the umbrella of one dispute.”

The Apex Court holds that any and all delays in judicial processes should be avoided and minimised to the largest extent possible. However, not in all cases can delay determine the fate of the suit. The defendant therein had contended that the time gap between the written statement to the suit and the present application seeking leave to amend is unexplained. Even then the Apex Court permitted the amendment on the ground that it was an issue of a Will, which will remain open even after disposal of the suit and result in multiplicity of litigation. The said judgment is distinguishable, on the facts obtaining in the case at hand, without much ado. Though Order VI Rule 17 of the CPC as amended, permits amendments to pleadings at any stage, but tempers such liberty with a proviso that postulates the necessity of due diligence. The rationale is unmistakable, it is to curb interminable litigation and to ensure trials are not derailed by belated pleas. Proviso to Rule 17 of the CPC, is thus, not an ornamental appendage, but a substantive limitation.



14. Therefore, the delay of 14 years in preferring the application cannot be brushed aside. The concerned Court has on rendering cogent reasons, has rightly rejected the application. The order does not warrant any interference.”

He had relied on the judgment of the Apex Court in the case of ***Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited & Another***¹ paragraph No.71.10 and 71.11 reads as follows:

“71.10. Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

71.11. Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi & Ors., 2022 SCC OnLine Del 1897)”

¹ (2022) 16 SCC 1



He also relied on the judgment of Apex Court in the case of **Vidyabai and ors Vs. Padmalatha and Anr**² relied on paragraph No. 11 and 12 which reads as follows:

"11.

43. Under the proviso no application for amendment shall be allowed after the trial has commenced, unless in spite of due diligence, the matter could not be raised before the commencement of trial. It is submitted, that after the trial of the case has commenced, no application of pleading shall be allowed unless the above requirement is satisfied. The amended Order 6 Rule 17 was due to the recommendation of the Law Commission since Order (sic Rule) 17, as it existed prior to the amendment, was invoked by parties interested in delaying the trial. That to shorten the litigation and speed up disposal of suits, amendment was made by the amending Act, 1999, deleting Rule 17 from the Code. This evoked much controversy/hesitation all over the country and also leading to boycott of courts and, therefore, by the Civil Procedure Code (Amendment) Act, 2002, provision has been restored by recognising the power of the court to grant amendment, however, with certain limitation which is contained in the new proviso added to the rule. The details furnished below will go to show as to how the facts of the present case show that the matters which are sought to be raised by way of amendment by the appellants were well within their knowledge on their court case, and manifests the absence of due diligence on the part of the appellants disentitling them to relief."

² (2008) 17 SCR 505



The ratio in Kailash (supra) was reiterated stating that the trial is deemed to commence when the issues are settled and the case is set down for recording of evidence.

12. Reliance, however, has been placed by Ms. Suri on Baldev Singh and Others v. Manohar Singh and Another [(2006) 6 SCC 498], wherein it was opined:

"17. Before we part with this order, we may also notice that proviso to Order 6 Rule 17 CPC provides that amendment of pleadings shall not be allowed when the trial of the suit has already commenced. For this reason, we have examined the records and find that, in fact, the trial has not yet commenced. It appears from the records that the parties have yet to file their documentary evidence in the suit. From the record, it also appears that the suit was not on the verge of conclusion as found by the High Court and the trial court. That apart, commencement of trial as used in proviso to Order 6 Rule 17 in the Code of Civil Procedure must be understood in the limited sense as meaning the final hearing of the suit, examination of witnesses, filing of documents and addressing of arguments. As noted hereinbefore, parties are yet to file their documents, we do not find any reason to reject the application for amendment of the written statement in view of proviso to Order 6 Rule 17 CPC which confers wide power and unfettered discretion to the court to allow an amendment of the written statement at any stage of the proceedings.

It is not an authority for the proposition that the trial would not deemed to have commenced on the date of first hearing. In that case, as noticed hereinbefore, the documents were yet to be filed



and, therefore, it was held that the trial did not commence.”

He also relied on the judgment of the Apex Court in the case of **Revajeetu Builders and Developers Vs. Narayanaswamy and Sons and Ors**³ in which paragraph No. 64 and 65 reads as follows:

"64. The decision on an application made under Order VI Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner. We can conclude our discussion by observing that while deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments.

65. When we apply these parameters to the present case, then the application for amendment deserves to be dismissed with costs of Rs.1,00,000/- (Rupees One Lakh) because the respondents were compelled to oppose the amendment application before different Courts. This appeal being devoid of any merit is accordingly dismissed with costs."

He also relied on the judgment passed by the Co-ordinate Bench this Court in the case of **Sri. Majidkhan Vs. Smt. Shahjadbegum & Ors** arising out of **WP.No.106223/2025**

³ (2009) 10 SCC 84



dated 27.02.2026 in which paragraph number 26 reads as follows:

"26. The plaintiff has questioned the probate proceedings in P&SC No.8/1979 in Misc. Petition No.43/2018 and the same has been dismissed. Misc. Petition No.369/1981 was dismissed for default. The plaintiff wants to amend the pleadings basing on these litigation stating that he came to know about these during the cross examination which is not tenable and the trial Court had rightly dismissed the application seeking amendment. The suit is of the year 2010. In spite of repeated directions by this Court, the trial Court could not dispose of the matter in view of the several applications filed. It appears that the petitioner only with an intention to drag on the proceedings and to cover up the latches has filed this application. It is stated that they have already made the factual basis alleging fraud and now they want to elaborate the same. According to the petitioner, if the respondents/defendants had stated several facts which support petitioner's case, he can make use of the same. In the light of the above discussions, this Court is of the view that the trial Court had rightly dismissed the application and this Court do not find any reasons to interfere. Hence, this Court is passing the following:

ORDER

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

Relying on these citations, it is submitted that an application filed with inordinate delay, without proper



explanation, has been allowed, and the trial court ought to have dismissed the application.

4. Learned counsel appearing for the respondent/plaintiff submits that the plaintiff has filed an affidavit stating the reasons for seeking the amendment. There are certain typographical mistakes which have to be corrected, and certain facts already stated by him and a factual foundation is already laid in the pleading. It is stated that the trial Court, considering all those aspects, has allowed the application. It is submitted that while considering an application under Order VI Rule 17 of CPC, the Court has to be liberal and cannot adopt a technical approach. It is submitted that the trial Court has considered all these aspects and has rightly allowed the application, and there are no grounds to interfere. Further he has relied on a judgment of the Apex Court in the case of **Sampath Kumar Vs. Ayyakannu and other**⁴ in which paragraph No. 7 reads as follows:

"7. In our opinion, the basic structure of the suit is not altered by the proposed amendment. What is sought to be changed is the nature of relief sought for by the plaintiff. In the opinion of the Trial Court

⁴ (2002) 7 SCC 559



it was one to the plaintiff to file a fresh suit and that is one of the reasons which has prevailed with the Trial Court and with the High Court in refusing the prayer for amendment and also in dismissing the plaintiffs revision. We fail to understand, if it is permissible for the plaintiff to file an independent suit, why the same relief which could be prayed for in a new suit cannot be permitted to be incorporated in the pending suit. In the facts and circumstances of the present case, allowing the amendment would curtail multiplicity of legal proceedings."

Relying on this judgment, it is submitted that the law is settled in this regard and the trial Court has rightly applied the same to the facts of the case. It is further submitted that there are no reasons to interfere with the well considered order passed by the trial court.

5. Having heard the learned counsels on either side, perused the material on record. The whole purpose of filing an affidavit in support of an IA is to bring to the notice of the court, what is the relief petitioner is seeking, and on what grounds he has come before the court. When the plaintiff has filed an application under Order VI Rule 17 of the CPC and seeks to amend the pleadings, after 14 years from the date of filing of the plaint, all the more reason the plaintiff has to



explain why he wants to amend the plaint and why he could not do so at the earliest point of time.

6. This Court has perused the affidavit filed by the plaintiff in support of I.A.No.1. Paragraph Nos. 1, 2, 3, 4, and 5 pertain to the facts of the case, and Paragraph No. 6 states that after the father's death, defendant No.1 took all documents pertaining to the joint family properties into his custody, has not provided any information about the joint family properties and income, and has also started mismanaging the joint family properties, colluding with his wife. Accordingly, in June 2010, he demanded that the defendant effect the partition in respect of the ancestral and joint family properties. Since they declined to effect the partition, he is constrained to file the suit. However, due to lack of knowledge about the entire joint family properties, he was unable to include all the properties left behind by the father and the properties purchased by defendant No.1 out of the joint family nucleus. However, by collecting some documents, he has filed the suit. Recently, he has engaged an advocate on record and, after going through the case papers, pleadings and plaint schedules and comparing them with the documents, has suggested amending the plaint



as sought for accordingly. He has therefore constrained to file the application. For want of knowledge and documents, he was unable to plead the description of the property in the plaint and in the schedule, which is bona fide and not intentional. As such, he seeks to amend the pleadings, and this court has also perused the amendment that the petitioner is seeking.

7. The petitioner has failed to mention the reasons for seeking the amendment and the reason for the delay, merely stating that his father died. From the date of the institution of the suit till now, 14 long years have passed, and now filed an application seeking amendment of the plaint. Liberally construing an application under Order VI Rule 17 doesn't mean that, whenever the plaintiff wants to amend the plaint, the court would allow the party to amend the pleadings. This kind of liberal approach, as projected by the trial court and as projected by the defendant, would be counterproductive. Being hyper-technical and being too liberal, without even going into the basic factors while deciding an Order VI Rule 17 application, is also not correct. In this case, the trial court has very casually allowed this application without appreciating any of the facts. The trial court has not even looked into the affidavit that is



filed, and even the objections filed by the defendants are brushed aside, saying that all these aspects will be decided at a later stage. The affidavit does not even disclose when he has come to know about all these properties and with regard to the other pleadings. In the considered opinion of this court, such a liberal approach is not in the interest of justice, and the judicial order has to necessarily contain the reasons for passing such an order or for arriving at such a conclusion.

8. In that view of the matter, this Court is passing the following:

ORDER

- i. The order passed on I.A.No.1 in O.S.No.4476/2010 dated 13.06.2025 passed by the XV Addl. City Civil and Sessions Judge, Bengaluru, is **set aside** and the matter is **remanded back** to the trial Court and the writ petition is **allowed**.
- ii. Within 1 week from the date of receipt of the copy of the order, the petitioner shall file the detailed application and from one week from



there on the respondent shall file his objection to the said detailed application.

- iii. From there after within one month the court shall pass appropriate order.
- iv. Pending I.As., in this writ petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

TS
List No.: 1 Sl No.: 47