



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 25991 OF 2025 (GM-CPC)

C/W

WRIT PETITION NO. 25924 OF 2025 (GM-CPC)

IN WP No. 25991/2025

BETWEEN:

SMT Y P HEMAMALINI REDDY
W/O LATE.A.N RAJA VENKATAREDDY
AGED ABOUT 54 YEARS
R/AT NO.53/18, 2ND CROSS, 2ND MAIN,
LALJI NAGAR, LAKKASANDRA,
BANGALORE- 560 030

...PETITIONER

(BY SRI. G R LAKSHMIPATHY REDDY., ADVOCATE)

AND:

1. SRI. A N SHUBHASH CHANDRA
DEAD BY HIS LEGAL HEIRS.,

SMT. JYOTHI,
W/O LATE. SUBHASCHANDRA
AGED ABOUT 52 YEARS

2. KUM. SANKEERTHI REDDY
D/O. LATE A. N. SUBHASH CHANDRA,
AGED ABOUT 21 YEARS



BOTH ARE RESIDING AT
NO.2/1, AMBALIPURA, HSR LAYOUT
BANGALORE- 560 002.

3. SRI A.N LINGAREDDY
S/O LATE.A.V NARASIMHAREDDY
AGED ABOUT 75 YEARS
R/AT NO. 1, KOTE MANE, 10TH A MAIN
INDIARANAGAR 2ND STAGE
BANGALORE-560 038
4. M/S SRI VIJYALAKSHMI LORRY SERVICE
CARRYING ON BUSINESS IN THE GROUND FLOOR
PROPERTY NO. C-44-45, NEW NO. 9 (OLD NO.7)
3RD MAIN ROAD, NEW THARGPET,
BANGLORE-560 002.
REP BY HIS PARTNER
SRI.I.M BHAKTA VATSALAM
S/O LATE. MADAPPA SHETTY
5. M/S DAWOOD TRADING COMPANY
A PARTNERSHIP FIRM CARRYING
ON BUSINESS IN THE 1ST FLOOR OF
THE PROPERTY NO. C-44-45,
NEW NO. 9 (OLD NO.7)
3RD MAIN ROAD, NEW THARGPET,
BANGLORE-560 002
REP BY HIS PARTNER
SRI. SABIR AHAMED.
6. SMT. A.S ANUSHA
S/O ARAVINDA KAMATH
AGED ABOUT 28 YEARS,



NC: 2026:KHC:31341
WP No. 25991 of 2025
C/W WP No. 25924 of 2025

7. SRI. A. S. AKSHAY
S/O ARAVINDA KAMATH
AGED ABOUT 22 YEARS

BOTH ARE RESIDING AT
NO.06, 7TH STREET,
AVENUE EXTENSION, BABUSAPALYA,
BANGALORE- 560 043

...RESPONDENTS

(BY SRI. Y.V.PRAKASH, ADVOCATE FOR R1 AND R2;
SRI. A MADHUSUDHANA RAO.,ADVOCATE FOR R3;
SRI. ARAVIND KAMATH P, ADVOCATE FOR R6 AND R7)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
RECORDS IN OS NO. 25740/2009 ON THE FILE OF CITY
COURT, BANGALORE (CCH-75) AND QUASHED THE IMPUGNED
ORDER DATED 09.06.2025 MADE ON IA NO. 10 IN OS NO.
25740/2009 ON THE FILE OF CITY CIVIL COURT CCH-75
BANGALORE, CONSEQUENTLY ALLOW THE IA NO. 10
PERMITTING THE PLAINTIFF TO WITHDRAW THE SUIT
INTEREST OF JUSTICE.

IN WP NO. 25924/2025

BETWEEN:

SMT Y P HEMAMALINI REDDY
W/O LATE.A.N RAJA VENKATAREDDY
AGED ABOUT 55 YEARS
R/AT NO.53/18, 2ND CROSS,
2ND MAIN, LALJI NAGAR, LAKKASANDRA,
BANGALORE- 560 030

...PETITIONER



(BY SRI. G R LAKSHMIPATHY REDDY.,ADVOCATE)

AND:

SRI A.N. SHUBHASH CHANDRA
DEAD BY HIS LEGAL HEIRS.,

1. SMT. JYOTHI,
W/O LATE. SUBHASCHANDRA
AGED ABOUT 52 YEARS
2. KUM. SANKEERTHI REDDY
D/O. LATE A. N. SUBHASH CHANDRA,
AGED ABOUT 21 YEARS

BOTH ARE RESIDING AT NO.2/1,
AMBALIPURA, HSR LAYOUT
BANGALORE-560 002.

3. SRI A.N LINGAREDDY
S/O LATE.A.V NARASIMHAREDDY
AGED ABOUT 75 YEARS
R/AT NO. 1, KOTE MANE, 10TH A MAIN
INDIARANAGAR 2ND STAGE
BANGALORE-560038
4. M/S SRI VIJYALAKSHMI LORRY SERVICE
REGISTERED BY PARTNERSHIP FIRM
CARRYING ON BUSINESS IN THE GROUND FLOOR
PROPERTY NO. C-44-45, NEW NO. 9 (OLD NO.7)
3RD MAIN ROAD, NEW THARGPET,
BANGLORE-560-002.
REP BY HIS PARTNER
SRI.I.M BHAKTA VATSALAM
S/O LATE. MADAPPA SHETTY



5. M/S DAWOOD TRADING COMPANY
A PARTNERSHIP FIRM CARRYING ON
BUSINESS IN THE 1ST FLOOR OF THE
PROPERTY NO. C-44-45, NEW NO. 9 (OLD NO.7)
3RD MAIN ROAD, NEW THARGPET,
BANGLORE-560 002
REP BY HIS PARTNER
SRI. SABIR AHAMED.

6. SMT. A.S ANUSHA
S/O ARAVINDA KAMATH
AGED ABOUT 28 YEARS

7. SRI. A. S. AKSHAYA
S/O ARAVINDA KAMATH
AGED ABOUT 22 YEARS

BOTH ARE RESIDING
R/AT NO.06, 7TH STREET,
AVENUE EXTENSION, BABUSAPALYA,
BANGALORE-560 043

...RESPONDENTS

(BY SRI. Y V PRAKASH., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
RECORDS IN O.S NO. 25740/2009 ON THE FILE OF CITY
CIVIL COURT, BANGALORE (CCH-75) AND QUASHED THE
IMPUGNED ORDER DATED- 09.06.2025 MADE ON 1.A NO.X
IN O.S NO 25740/2009 ON THE FILE OF CITY CIVIL COURT,
CCH-75, BANGALORE AND GRANT SUCH OTHER ORDER OR
ORDERS AS THIS HON'BLE COURT MADE IN FIT TO GRANT
IN THE CIRCUMSTANCES OF CASE IN THE INTEREST OF
JUSTICE EQUITY AND LAW.



NC: 2026:KHC:31341
WP No. 25991 of 2025
C/W WP No. 25924 of 2025

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED ON 10.06.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

Aggrieved by the orders passed in I.A.No.X and I.A.No.XI in O.S.No.25740/2009 dated 09.06.2025 by the City Civil Court, CCH-75, Bangalore, the petitioner has filed W.P.No.25991/2025 C/w W.P.No.25924/2025. WP.No.25991/2025 is filed questioning I.A.No.X and WP.No.25924/2025 is filed questioning I.A.No.XI. Hence this Court is disposing of both these appeals by way of a common order.

2. The parties are referred to as arrayed before the trial Court for the sake of convenience.

3. The petitioner herein, who is the plaintiff, had filed O.S.No.25740/2009 along with plaintiff Nos.2 and 3 against defendant Nos.1 to 5 for partition and other relief before the City Civil Court, Bangalore. Subsequently, plaintiff Nos.2 and 3 were transposed as defendant Nos.6 and 7. In the said suit, defendant No.2 filed his written statement, and defendant No.5



filed his separate written statement. After being transposed as defendant Nos.6 and 7, plaintiff Nos.2 and 3 filed their written statements, represented by their mother, the GPA holder, claiming a specific share in the suit property. On 30.09.2024, defendant Nos.6 and 7 filed an application under Order 23 Rule 1A read with Order 1 Rule 10 of the CPC, again seeking to be re-transposed as plaintiff Nos.2 and 3. On 03.02.2025, the plaintiff filed an application to withdraw the suit under Order 23 Rule 1, read with Section 151 of the CPC, with liberty to file a fresh suit on the same cause of action. The trial Court, by the impugned order, allowed I.A.No.X, permitted defendant Nos.6 and 7 to transpose as plaintiffs, and rejected I.A.No.XI seeking permission to withdraw the suit with liberty to file another suit on the same cause of action. Aggrieved thereby, the plaintiff is before this Court, questioning both the orders.

4. First, coming to the order passed by the trial Court in I.A.No.X, whereby defendant Nos.6 and 7 are permitted to transpose as plaintiffs, defendant Nos.6 and 7 had filed I.A.No.X stating that the applicants were the original plaintiff Nos.2 and 3 and that they were transposed as defendant Nos.6



and 7 by order dated 11.01.2024. It is the case that the plaintiff had colluded illegally and has been hand-in-glove with the contesting defendants D1(a), 1(b) and D2, and has been taking adverse stands to the applicants since 2016. The plaintiff had filed a memo dated 27.09.2024 to withdraw the suit without contesting the matter, and had also stated that the rent paid by the tenant D5 be paid to D1(a) and D1(b), while she is nowhere competent to do so. It is stated that there are substantial questions yet to be decided, even if the plaintiff decides to abandon all her claims. In the event when the Court decides to allow the plaintiff to withdraw the suit, defendant Nos.6 and 7 will be seriously prejudiced, leaving the claims raised by them undecided and thereby enabling the fraudulent parties in this suit to flee scot-free. Hence, defendant Nos.6 and 7 want to be re-transposed as plaintiffs. The plaintiff had filed her objections to the application, stating that the application is not maintainable.

5. The trial Court, by the impugned order, allowed I.a.no.x. While allowing the application, the trial Court observed that a perusal of the record would show that defendant Nos.6



and 7 had filed the instant application when the case was posted for defendants' evidence. Having regard to the contentions put forth by the parties, the crux of the dispute is whether the suit properties are the joint family properties of the plaintiff and defendants or the self-acquired properties of the father of the plaintiff and defendants. The trial Court observed that, in a suit for partition, a third party cannot be impleaded. However, the facts and circumstances of the present case are completely different. To avoid complications and multiplicity of proceedings, it was advised to file this I.A. seeking an order to transpose defendant Nos.6 and 7 as plaintiffs, as they are seeking the legitimate share along with the plaintiff. When such is the fact, it cannot be said that defendant Nos.6 and 7 can not be transposed as plaintiffs, because they also claim possession over the suit schedule property. Though, in a suit for partition, a third person cannot be impleaded, the facts and circumstances of the present case are completely different. If defendant Nos.6 and 7 can be transposed as plaintiffs, no prejudice will be caused to the plaintiff. The transposition of defendant Nos.6 and 7 as plaintiffs may assist the Court in adjudicating the matter



effectively. When they claim rights over the property, the question is why they should suffer any partition in respect of the property on which they claim a right. Hence, considering all the facts and circumstances of the case, the trial Court held that defendant Nos.6 and 7 are transposed as plaintiffs in the suit. The trial Court further held that the citation relied on by defendant Nos.6 and 7 aptly applies to the facts and circumstances of the present case and accordingly allowed I.A.No.X.

6. When it comes to I.A.No.XI filed by the plaintiff under Order XXIII Rule 1 read with Section 151 of CPC seeking permission to withdraw the suit with liberty to file another suit on the same cause of action, the case of the plaintiff is that she had filed the suit along with defendant Nos.6 and 7. In view of certain complications and disputes between her and defendant Nos.6 and 7, they have been transposed as defendant Nos.6 and 7. This suit is filed for partition of 1/4th share and for possession, and also for a direction to defendant Nos.1 to 3 to pay a sum of Rs.1,18,000/- towards rents realized by defendant Nos.1 to 3. The suit schedule property is the joint



family property of the plaintiff's husband and defendant Nos.1 to 3. Defendant Nos.4 and 5 are tenants. Defendant Nos.6 and 7 are alleged to be the adopted children of the plaintiff, and defendant Nos.6 and 7 have no manner of right or interest to make a claim in respect of the suit schedule property. Defendant Nos.1 to 3 also seriously dispute her claim in respect of the schedule property. The alleged adoption and the rights of the adopted children, defendant Nos.6 and 7, cannot be decided in the suit, and as such, she wanted to withdraw the suit and file a fresh suit, and it is just and necessary to permit her to withdraw the suit and file a fresh suit. It is stated that there are complications and mixed facts, and further, defendant Nos.1 to 3 are not parties to the adoption deed, and in view of transposing defendant Nos.6 and 7, who were plaintiff Nos.2 and 3 along with her. The pleading in the plaint has not been amended in view of transposing plaintiff Nos.2 and 3 as defendant Nos.6 and 7. In view of the present circumstances, she is sure to lose her exclusive right over the suit schedule property, and accordingly, she sought permission of the Court to withdraw the suit.



7. Defendants Nos. 6 and 7 have filed their objections. It is stated that a suit for partition is peculiar in that all plaintiffs and defendants are of equal status. The plaintiffs and other defendants have filed a P&SC No. 25003/2024 without disclosing the material facts regarding the rights of these or at least their existence and the dispute. The plaintiff is barred by Order XXIII Rule 1(5) of the CPC from withdrawing the suit without the consent of the other plaintiffs and defendants. The plaintiffs have not sought permission as mandated under Order XXIII Rule 1(5) of the CPC and have opposed the application.

8. The trial Court, by the impugned order, had rejected I.A.No.XI. While rejecting I.A.No.XI, the trial Court had considered the stands of the respective parties and observed that, in the instant case, the evidence had commenced. Before the commencement of the evidence, the parties are at liberty to set right their pleadings. At the risk of repetition, having regard to the developments that took place during the pendency of the suit, the parties are at liberty to amend their pleadings. As per Order 1 Rule 10(2) of CPC, at any stage of the proceedings, on the application of either party or the Court



suo-moto, any person may be added as a plaintiff or defendant if the Court is of the opinion that the presence is necessary to enable complete and effective adjudication of the case and to settle all the questions involved in the suit. The trial Court observed that, in a suit for partition, all parties having interest in the subject matter of the suit are to be made parties. In view of the finding that defendant Nos.6 and 7 are the children of the pre-deceased son of Smt. Gowramma, who has a right in the suit property as a Class I legal heir of Dr. A. N. Raja Venkata Reddy, it cannot be said that defendant Nos.6 and 7 have no semblance of right in the suit property. Hence, the trial Court held that defendant Nos.6 and 7 have a right and interest in the suit property as heirs of Smt. Gowramma. In light of the same, the trial Court observed that the instant application would not fulfill the requirements of Order 23 Rule 1(3) of CPC to permit them to withdraw the suit, by holding that there are incurable formal defects in the suit and, due to the said defect, the suit would fail on technicality or on procedural aspect, and accordingly rejected the application.



9. Learned counsel appearing for the petitioner/plaintiff submits that, being the plaintiff in the suit, she has every right to withdraw the suit. Further, the Court, without even properly appreciating the reasons stated for the plaintiff's desire to withdraw the suit, gave unwarranted findings and rejected the application. It is submitted that, since plaintiff Nos. 2 and 3 have been transposed as defendants, the application to re-transpose them as plaintiffs is not maintainable, yet the Court, without considering this aspect, allowed the I.A. and permitted them to transpose as plaintiffs. It is submitted that the judgment of the trial Court is contrary to law and facts and needs to be set aside.

10. Learned counsel appearing for the defendants submits that the trial Court had rightly allowed the application filed by defendant Nos.6 and 7 to transpose them as plaintiffs. Earlier, they were plaintiff Nos.2 and 3, and later they were transposed as defendant Nos.6 and 7. It is submitted that, considering the plaintiff's conduct, including collusion with other defendants who have no matter of right and title, and the application to withdraw the suit, the Court has rightly



considered all relevant aspects and allowed I.A.No.X filed by defendant Nos.6 and 7 to transpose them as plaintiffs in the suit, and also rightly rejected I.A.No.XI filed by the plaintiff to withdraw the suit.

11. Learned counsel had relied on the judgment of the Co-ordinate Bench of this Court in case of ***Sheshamma since dead by Lrs. Vs. Ramesh Kumar and Another*** arising out of ***CRP.No.144/2025 dated 30.07.2025***, which reads as follows:

"The concerned Court was answering a memo filed by the plaintiff seeking to withdraw the suit. The memo comes to be rejected following the judgment of the division bench in the case of SMT.GOWRAMMA (supra) holding that the plaintiff may be the master of her plaint, but in a suit for partition, the plaintiff and defendants are on equal footing and, therefore, the memo comes to be rejected.

17. In the present suit, respondent Nos.1 and 2 - the objectors to the withdrawal of the suit, have clearly articulated their intent to pursue their lawful claim to the properties in question. The concerned Court in consonance with the well settled position of law, rightly permitted their transposition as plaintiffs. To permit withdrawal in the face of such objections, would amount to denial of justice to those who still seek adjudication in a suit for partition. Thus, the unmistakable inference is, sustainability of the order and unsustainability of the claim of the plaintiffs."

12. Relying on this, it is submitted that the partition suit stands on a different footing, and the Court rightly rejected the



plaintiff's application and allowed the applications filed by defendant Nos. 6 and 7. No interference is called for with the well-considered order passed by the trial court.

13. Having heard the learned counsels on either side and perused the entire material on record, there is no dispute that earlier, defendant Nos.6 and 7, who were plaintiff Nos.2 and 3, had filed a suit for partition and were later transposed as defendant Nos.6 and 7. Now, the plaintiff seeks to withdraw the suit. The trial Court rejected the same. The trial Court allowed the application filed by defendant Nos.6 and 7 to transpose them as plaintiffs. A partition suit altogether stands on a different footing. The approach of the Court in dealing with a partition suit is different from that in an ordinary civil suit, because every co-sharer's right is involved and the Court is concerned with determining and protecting the rights of all sharers. Accordingly, a plaintiff cannot be permitted to withdraw the suit in a manner that prejudices the rights already accrued to the other co-sharers. When an application is filed under Order XXIII Rule 1(3) of CPC seeking withdrawal of the suit with liberty to file a fresh suit, the Court has to examine not only the existence of a formal defect or sufficient grounds



but also the effect of such withdrawal on the rights of the defendants and other co-sharers. Every co-sharer has an independent interest in the subject matter, and the adjudication is not confined merely to the claim of the plaintiff. The burden lies on the plaintiff to establish the existence of such circumstances that warrant the withdrawal of the suit.

14. In the present case, the plaintiff has not demonstrated any formal defect that renders the suit liable to fail. No issue relating to valuation, Court fee, jurisdiction, non-joinder of parties, improper description of property, or any similar procedural defects has been pointed out. Once the Court is seized of a partition action, the defendants are entitled to have their rights adjudicated. The plaintiff cannot be permitted to defeat or postpone such adjudication by seeking withdrawal of the proceedings at her convenience. The defendant Nos. 6 and 7 have asserted independent rights in the suit schedule properties, the determination of which forms part of the subject matter of the proceedings. Granting permission to withdraw the suit with liberty to institute a fresh suit would result in multiplicity of proceedings and would prejudice the rights already asserted by the defendants. This Court is of the view



that the conditions envisaged under Order XXIII Rule 1(3) of CPC are fulfilled by the plaintiff, and the plaintiff is not entitled to the discretionary relief.

15. In this case, the suit was filed in the year 2009, and in the year 2025, the plaintiff filed an application to withdraw the suit, which is not permissible, and the trial Court rightly rejected the application. Then, coming to the transposition of the defendants as the plaintiffs, they were earlier plaintiffs 2 and 3 and were later transposed as defendant Nos.6 and 7. Defendant Nos.6 and 7, in their application, stated that the plaintiff had colluded with the other defendants, which is evident from the application filed by her regarding amounts to be paid by the tenants. The transposition will not cause any prejudice to the parties, particularly in this case, in light of the fact that the plaintiff made attempts to withdraw the suit and the allegation of collusion between the plaintiff and other defendants. Defendant Nos.6 and 7 have made out the grounds to transpose them as plaintiffs. In view of the above discussion, this Court does not find any reason to interfere. Hence, this Court is passing the following:



ORDER

- i. Accordingly, both the writ petitions are
dismissed.
- ii. All I.As. in this petition shall stand closed.

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

MEG
List No.: 1 Sl No.: 3