



CNR: KAHC010573922024

NC: 2026:KHC:52039  
WP No. 28447 of 2024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 21<sup>ST</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE K. V. ARAVIND**

**WRIT PETITION NO. 28447 OF 2024 (GM-CPC)**

**BETWEEN:**

1. SRI B M SHIVAKUMAR,  
S/O. LATE G MUNIYAPPA,  
AGED ABOUT 56 YEARS,  
RESIDING AT No.4,  
TEJASWINI NILAYA,  
AYYANNA SHETTY LAYOUT,  
MYSORE ROAD,  
BENGALURU-560026.
2. SRI. ABHISHEK R JAIN  
S/O. RAJESH KUMAR JAIN,  
AGED ABOUT 32 YEARS,  
RESIDING AT NO.693,  
4<sup>TH</sup> MAIN ROAD, NEAR PES COLLEGE,  
RAGHVENDRA BLOCK, 50 FEET ROAD,  
SRINAGARA, BENGALURU-560050.

...PETITIONERS

Digitally  
signed by  
VINUTHA B  
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Location:  
High Court  
of Karnataka

(BY SRI BALARAJ M. V., ADVOCATE)

**AND:**

1. SRI KIRAN KUMAR  
S/O NARAYANSWAMY P.L.,  
AGED ABOUT 41 YEARS,
2. SRI. SUNIL KUMAR.  
S/O NARAYANSWAMY P.L.  
AGED ABOUT 43 YEARS,



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3. SMT. INDIRAMMA.  
W/O GIRIMALLAIAH,  
AGED ABOUT 46 YEARS,

RESPONDENT No.1 TO 3 ARE  
RESIDING AT NO.245,  
4<sup>TH</sup> CROSS, NEAR AVALAHALLI BDA PARK,  
BANASHANKARI 3<sup>RD</sup> STAGE,  
BANGALORE-560085.

...RESPONDENTS

(BY SRI H. MANJUNATH, ADVOCATE FOR R1 AND R2;  
SRI S.R. MURALIDHAR, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF  
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE  
IMPUGNED ORDER DATED 29.06.2024 PASSED ON IA NO. 2  
UNDER ORDER 6 RULE 17 OF CPC IN OS NO. 336/2023 ON THE  
FILE OF VI ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-11)  
AT BANGALORE AS ANNEXURE-A.

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

### **ORAL ORDER**

The present petition is filed impugning the order dated  
29.06.2024 passed in O.S.No.336/2023 on I.A.No.2, filed under  
Order VI Rule 17 of the Code of Civil Procedure, 1908, seeking  
amendment of the plaint.



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2. Learned counsel appearing for the petitioners submits that the suit was initially filed seeking a decree of permanent injunction. In view of the denial of the plaintiffs' title to the suit schedule property in the written statement, the petitioners sought amendment of the plaint to incorporate a prayer for declaration in respect of the suit schedule property. It is submitted that the application for amendment was filed at the stage when the issues had been framed and before commencement of recording of evidence.

2.1 It is further submitted that the Trial Court, by incorrectly interpreting the provisions of Order VI Rule 17 of the Code of Civil Procedure, rejected the application holding that amendment of the plaint is not permissible at the stage of framing of issues.

3. *Per contra*, learned counsel appearing for the respondents submits that the cause of action in respect of the prayer sought to be incorporated by way of amendment had arisen much prior to the filing of the suit. Hence, it is submitted that the rejection of the application is justified. It is further submitted that there is no explanation forthcoming as to why the said prayer was



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not sought at the time of filing the suit, despite the petitioners having the opportunity to do so with due diligence.

4. Considered the submissions made by learned counsel for the parties.

5. It is evident from the record that the petitioners instituted the suit seeking a decree of permanent injunction in respect of the suit schedule property. The defendants filed their written statement denying the title of the plaintiffs to the suit schedule property.

6. It is a settled position of law that where, in a suit for permanent injunction, the title to the suit property is denied, the plaintiff is required to seek a declaration of title, and the suit cannot proceed merely on the basis of a prayer for injunction. Moreover, in order to avoid multiplicity of proceedings and to facilitate comprehensive adjudication of the disputes between the parties, an amendment necessary for determining the real controversy ought to be permitted.

7. In the present case, no prejudice is likely to be caused to the defendants if the amendment is permitted. The application



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for amendment was filed at the threshold, even before commencement of recording of evidence. The Trial Court, therefore, committed an error in rejecting the application merely on the ground that the issues had already been framed.

8. No doubt, the proposed amendment may cause some inconvenience to the defendants. However, the same can be compensated by imposing appropriate costs.

9. In that view of the matter, the order dated 29.06.2024 passed in O.S.No.336/2023 is hereby set aside. I.A.No.2 filed under Order VI Rule 17 of the Code of Civil Procedure, 1908, is allowed, subject to payment of costs of Rs.10,000/- by the plaintiffs to the defendants.

Accordingly, the writ petition stands ***disposed of***.

**Sd/-  
(K. V. ARAVIND)  
JUDGE**

VP  
List No.: 1 Sl No.: 43