



CNR: KAHC010638662023

NC: 2026:KHC:45512
W.P. No.28007/2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 24TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.28007/2023 (GM-CPC)

BETWEEN:

SMT. BHAGYAMMA
W/O SRI MAREGOWDA
D/O LATE NARAYANAPPA
AGED ABOUT 40 YEARS
R/AT KONAGHATTA VILLAGE
KASABA HOBLI, DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT-561203.

...PETITIONER

(BY SRI. SHANKAREGOWDA M.B. ADV.,)

AND:

1. SMT. KEMPAMMA
W/O LATE NARAYANAPPA
AGED ABOUT 70 YEARS.
2. SMT. HANUMAKKA
D/O LATE NARAYANAPPA
AGED ABOUT 55 YEARS.

BOTH ARE R/AT
VARADANAHALLI VILLAGE
VEERAPURA POST, KASABA HOBLI
DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT-561203.

3. SRI. DEVARAJU
S/O LATE NARAYANAPPA
AGED ABOUT 49 YEARS

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010638662023

NC: 2026:KHC:45512
W.P. No.28007/2023

R/AT DODDATUMKUR VILLAGE
MADHURE HOBLI
DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT-561203.

4. SMT. PUTTAMMA
W/O SRI RAMAIAH
AGED ABOUT 57 YEARS
R/AT SOMESHWARA TEMPLE
OPP TO RURAL POLICE STATION
DODDABALLAPURA TOWN
BENGALURU RURAL DISTRICT-561203.

...RESPONDENTS

(BY SRI. ASWATHANARAYANAREDDY K.M. ADV., FOR R1 & R2
SRI. GIRISH KUMAR R, ADV., FOR R3
SRI. DILIP H.D. ADV., FOR
SRI. KALYAN R, ADV., FOR R4)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER DTD 25/09/2023 ANNEXURE-A PASSED ON IA NO. 18 UNDER ORDER 6 RULE 17 R/W SEC 151 OF FOR AMENDMENT AND CONSEQUENTLY, ISSUE SUCH NECESSARY ORDER TO ALLOW THE IA 18 UNDER ORDER 6 RULE 17 R/W SEC 151 OF CPC FILED BY THE PETITIONER IN OS NO.189/2008 PENDING ON THE FILE OF SENIOR CIVIL JUDGE DODDABALLAPURA BENGALURU RURAL DISTRICT TO MET THE ENDS OF JUSTICE AND EQUITY & ETC.

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



CNR: KAHC010638662023

NC: 2026:KHC:45512
W.P. No.28007/2023

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This petition is filed challenging the order dated 25.09.2023 passed on IA.No.18 in OS.No.189/2008 by the Senior Civil Judge, Doddaballapura, Bengaluru Rural District, Bengaluru (for short 'the trial Court').

2. Heard Sri.Shankaragowda M.B., learned counsel appearing for the petitioner, Sri.Aswathanarayanareddy K.M., learned counsel for respondent Nos.1 and 2, Sri.Girish Kumar R., learned counsel for respondent No.3, Sri.Dilip H.D., learned counsel for Sri.Kalyani R., learned counsel for respondent No.4 and meticulously perused the material available on record.

3. The suit in OS.No.189/2008 was filed by Sri.Devraju - respondent No.3 herein and the petitioner seeking the relief of partition and separate possession as well as a declaration that the sale deed dated 02.11.2007 is not binding on the plaintiffs. The suit schedule



NC: 2026:KHC:45512
W.P. No.28007/2023

CNR: KAHC010638662023

comprises of four items. Respondent No.4 herein, who is defendant No.3 in the suit, is the purchaser of some of the suit schedule properties. Defendant Nos.2 and 3 filed their written statements. Thereafter, the parties adduced the evidence, and the matter was posted for final arguments. At that stage, the petitioner/plaintiff No.2 filed an application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') seeking amendment of the plaint by incorporating item Nos.5 to 16 as suit schedule properties. The trial Court, under the impugned order, considered the said application and rejected the same.

4. The contention of learned counsel for the petitioner is that item Nos.5 to 16 are joint family properties and that plaintiff No.1, in collusion with the defendants, intended to deprive the right of the petitioner. It is submitted that, on noticing that item Nos.5 to 16 were joint family properties and had been inadvertently



NC: 2026:KHC:45512
W.P. No.28007/2023

CNR: KAHC010638662023

left out from the suit schedule properties, sought to include them in the purview of the suit for partition. It is further submitted that allowing the amendment would not cause any prejudice to the other side.

5. It is to be noticed that the trial Court while rejecting the application has recorded the reasons that defendant Nos.1 and 2 i.e., respondent Nos.1 and 2 herein, had earlier filed a suit in OS.No.501/2007 seeking partition, wherein the very same item Nos.5 to 16 were included as the properties. Later, the said suit was disposed of, pursuant to which the revenue records were mutated. The trial Court further recorded that plaintiff No.2 was very much aware that item Nos.5 to 16, which now she intends to include in the plaint are joint family properties. However, despite her knowledge of the same, she did not take any steps to include item Nos.5 to 16 as properties in OS.No.189/2008. I do not find any error in the said finding.



CNR: KAHC010638662023

NC: 2026:KHC:45512
W.P. No.28007/2023

6. A perusal of the affidavit filed in support of the application seeking amendment indicates that the only explanation offered by the petitioner is that, due to an oversight, the said properties were not included when the suit was filed in the year 2008. Such an explanation or a cause cannot be termed as a sufficient cause nor can be termed as a due diligence as contemplated under the proviso to Order VI Rule 17 of the CPC. The affidavit does not disclose any reason as to why, despite having knowledge of the properties, the said properties were not included in the suit when the suit was filed in the year 2008.

7. The trial Court, taking note of the fact that the application for amendment was filed at the fag end of the proceedings, when matter had already been posted for final arguments, rejected the application. I do not find any error or perversity in the order passed by the trial Court calling for interference in the present petition. Accordingly,



CNR: KAHC010638662023

NC: 2026:KHC:45512
W.P. No.28007/2023

the writ petition is devoid of merits and the same is
rejected.

Pending applications, if any, stand disposed of.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 15