HC-KAR

CNR: KAHC010138832021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 6518 OF 2021 (GM-CPC)

BETWEEN:

SRI. M. KEMPAIAH
SON OF LATE MOTAPPA,
AGED ABOUT 68 YEARS,
RESIDING AT KADUSONNAPPANAHALLI
VILLAGE, BIDARHALLI HOBLI,
BANGALORE EAST TALUK.

...PETITIONER

(BY SRI. BALAKRISHNA A, ADVOCATE)

AND:

1. SRI. M. RAMACHANDRA
SON OF LATE MOTAPPA,
SINCE DEAD BY HIS LEGAL REPRESENTATIVES

1(A). SMT. KEMPAMMA,
WIFE OF LATE RAMACHANDRA
AGED ABOUT 44 YEARS,

1(B). SMT. MAMATHA
WIFE OF KEMPARAJU,
DAUGHTER OF LATE RAMACHANDRA
AGED ABOUT 29 YEARS,

1(C). SRI. SRIDHAR

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SON OF LATE RAMACHANDRA
AGED ABOUT 27 YEARS,

2. SRI. SIDDESH
SON OF LATE MOTTAPPA,
AGED ABOUT 65 YEARS,

3. SRI. M. JAVARAYAPPA
SON OF LATE MOTTAPPA,
AGED ABOUT 75 YEARS,
SINCE DEAD BY HIS LR'S

3(A). SRI. CHIKKAPAIAH
SON OF LATE M. JAVARAYAPPA
AGED ABOUT 59 YEARS

3(B). SMT. AJANAMMA
DAUGHTER OF LATE M. JAVARAYAPPA
AGED ABOUT 57 YEARS

3(C). SRI. J. RAJA
SON OF LATE M. JAVARAYAPPA
AGED ABOUT 55 YEARS

3(D). SRI. SRINIVASA
SON OF LATE M. JAVARAYAPPA
AGED ABOUT 50 YEARS

3(E). SRI. MANJUNATHA
SON OF LATE M. JAVARAYAPPA
AGED ABOUT 47 YEARS

3(F). SRI. SIDDARAJU
SON OF LATE M. JAVARAYAPPA

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AGED ABOUT 45 YEARS

3(G). SMT. BHAGYAMMA
DAUGHTER OF LATE M. JAVARAYAPPA
AGED ABOUT 40 YEARS

ALL ARE RESIDING AT
KADUSONNAPPANAHALLI VILLAGE
BIDARAHALLI HOBLI,
BANGALORE WAST TALUK.

4. SRI. M. ANJANAPPA
SON OF LATE MOTTAPPA,
AGED ABOUT 54 YEARS,

4(A). SMT. MADAMMA
W/O LATE NAGARAJA
AGED ABOUT 53 YEARS

4(B). SMT. SUGUNA
DAUGHTER OF LATE NAGARAJU
AGED ABOUT 32 YEARS

4(C). SRI. MUNIYAPPA
SON OF LATE M. ANJINAPPA
AGED ABOUT 54 YEARS

4(D). SRI. RAMANJANI
SON OF LATE M. ANJINAPPA
AGED ABOUT 50 YEARS

4(E). SRI. SIDDESHA
SON OF LATE M. ANJINAPPA
AGED ABOUT 44 YEARS

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ALL ARE RESIDING AT
KADUSONNAPPANAHALLI VILLAGE
BIDARAHALLI HOBLI
BANGALORE EAST TALUK.

5. SRI. M. RAMAKRISHNA
SON OF LATE MOTTAPPA,
SINCE DEAD BY HIS LRS,

5(A). SMT. NAGARATNA,
DAUGHTER OF LATE M. RAMAKRISHNA,
AGED ABOUT 28 YEARS,

5(B). SRI. MANJUNATHA
SON OF LATE M. RAMAKRISHNA,
AGED ABOUT 30 YEARS,

5(C). SMT. SHYLAJA
DAUGHTER OF LATE M. RAMAKRISHNA,
AGED ABOUT 28 YEARS,

5(D). SRI. SATHISH
SON OF LATE M. RAMAKRISHNA,
AGED ABOUT 27 YEARS,
RESPONDENTS NO.1 TO 5(A) TO 5(D) ARE
RESIDING AT KADUSONNAPPAHALLI VILLAGE,
BIDARAHALLI HOBLI, BANGALORE EAST TALUK.

6. SIDDAMMA
DAUGHTER OF LATE MOTTAPPA,
AGED ABOUT 75 YEARS,

7. SMT. MUNITHAYAMMA
DAUGHTER OF LATE MOTTAPPA,

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AGED ABOUT 70 YEARS,
RESIDING AT KORAMANGALA VILLAGE,
KADUGODI, BANGALORE.

8. SMT. MUNIRATNAMMA
DAUGHTER OF LATE MOTTAPPA,
AGED ABOUT 67 YEARS,

9. SMT. RATNAMMA ALIAS GUBALAMMA
DAUGHTER OF LATE MOTAPPA
AGED ABOUT 64 YEARS
RESPONDENTS NO.6, 8 AND 9 ARE
RESIDING AT KADUSONNAPPAHALLI VILLAGE,
BIDARAHALLI HOBLI, BANGALORE EAST TALUK.

...RESPONDENTS

(BY SRI. K.B.S. SRINIVAS BHAT, ADVOCATE FOR R1(A TO C) & ALSO FOR R2;
SRI. M.A. NARAYAN, ADVOCATE FOR R5(A TO D), R6 TO R9;
R3(C) - J RAJA - SERVED;
R4(E) - SIDDESHA - SERVED;
M.S. NARYAN ADVOCATE FOR R3(A TO F) & R4(A, C, D, E);
VIDE ORDER DATED 24.08.2026, NOTICE TO R2 IS HELD SUFFICIENT;
R2 - IDDESH VIDE ORDER DATED 19.08.2026,
R3(A, B, D, E, F, G) & R4(A &D) IS HELD SUFFICIENT;
R3(G) - BHAGYAMMA;
R4(B) - SUGUNA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD.3.2.2021 PASSED ON IA FILED UNDER ORDER VI RULE 17 OF THE CODE OF CIVIL PROCEDURE VIDE ANNEXURE-E AND THE IMPUGNED ORDER DTD.25.2.2021 PASSED ON AI FILED UNDER SECTION 151 OF THE CODE OF

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CIVIL PROCEDURE VIDE ANNEXURE-H IN O.S.NO.737/1996 ON THE FILE OF THE PRINCIPAL SECOND CIVIL JUDGE BANGALORE RURAL DISTRICT BANGALORE AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Captioned writ petition is filed by defendant No.4 assailing the order passed by the learned Trial Judge allowing the application filed by the plaintiff under Order VII Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the CPC'), seeking amendment of the plaint and consequently permitting the plaintiff to carry out the proposed amendments.

2. Learned counsel appearing for the petitioner, reiterating the grounds urged in the writ petition, would contend that the impugned order is vitiated by a gross violation of the principles of natural justice. It is his specific contention that though the petitioner had filed objections to the amendment application, he was not afforded an opportunity of

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addressing arguments before the learned Trial Judge proceeded to allow the application.

3. On a pointed query by this Court as to whether the petitioner had placed any material on record to demonstrate that the learned Trial Judge had hastily proceeded to allow the amendment application without hearing the petitioner, and particularly when this Court sought to examine the relevant order sheet proceedings, learned counsel was unable to produce the complete order sheet to substantiate the said contention.

4. Per contra, learned counsel appearing for the respondent/plaintiff would submit that the petitioner had indeed contested the amendment application by filing objections. However, despite filing objections, the petitioner's counsel did not proceed to address arguments. It is further contended that, in the absence of any further submissions on behalf of the petitioner, the learned Trial Judge, upon consideration of the amendment application and the objections filed thereto, proceeded to exercise judicial discretion and allowed the application. Therefore, the impugned order does

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not suffer from any infirmity warranting interference by this Court in exercise of its supervisory jurisdiction.

5. Heard learned counsel appearing for the parties. Perused the impugned order as well as the order of remand passed by the Appellate Court in R.A.No.25/2004.

6. The principal objection raised by the petitioner to the proposed amendment is that the plaintiff ought not to have been permitted to question the validity of the gift deed dated 31.10.1955, executed in favour of Kempaiah, the present petitioner. The petitioner's contention appears to be that the properties covered under the said gift deed were not joint family properties, but were properties independently owned by the concerned family member/third parties, and therefore, the plaintiff cannot be permitted to introduce a challenge to the said transaction by way of amendment.

7. This Court is unable to accede to the aforesaid contention at this stage. In a suit for partition, the rights claimed by the parties in respect of the suit schedule properties are required to be adjudicated upon in the light of the pleadings

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and evidence ultimately brought on record. Whether the properties covered under the gift deed dated 31.10.1955 were joint family properties or were independently owned properties, as sought to be contended by the petitioner, is essentially a matter for adjudication during trial. The same cannot be conclusively determined at the stage of considering an application seeking amendment of the plaint.

8. It is also relevant to note that the plaintiff, by way of the proposed amendment, seeks to question the sale deed dated 16.03.1968 executed in favour of the present petitioner in respect of Sy.Nos.109/2 and 61/3. These amendments are sought pursuant to the remand order passed by the Appellate Court. Having regard to the nature of the proceedings and the fact that the *lis* pertains to adjudication of *inter se* rights of the parties in a partition suit, the approach of the Court, while considering an application for amendment, ought to be liberal, provided the proposed amendments are necessary for effectively determining the real controversy between the parties.

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9. However, the Court cannot lose sight of the fact that the petitioner is also entitled to effectively defend the suit against the amended pleadings and the additional reliefs sought to be introduced by the plaintiff. The mere fact that the amendment application has been allowed cannot, by itself, result in deprivation of the petitioner's valuable right to contest the amended pleadings. The petitioner must necessarily be afforded an adequate opportunity to meet the additional pleadings and prayers introduced by way of amendment. His right to raise all legally permissible defences, including the plea of limitation, must also remain intact.

10. Therefore, this Court is of the considered view that the learned Trial Judge, having taken a liberal view of the matter and exercised judicial discretion in favour of permitting the plaintiff to bring the relevant controversies on record, has not committed any jurisdictional error or material irregularity warranting interference under Article 227 of the Constitution of India. The impugned order, in the facts and circumstances of the case, does not call for supervisory interference.

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11. Accordingly, while declining to interfere with the impugned order, it is made clear that the petitioner is at liberty to file an additional written statement traversing the amended pleadings and contesting the additional prayers introduced by the plaintiff. The petitioner shall also be at liberty to raise all such defences as are available to him in law, including the plea of limitation, and the learned Trial Judge shall consider the same in accordance with law, uninfluenced by the observations made in this order.

With these observations, the writ petition stands ***dismissed***.

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(SACHIN SHANKAR MAGADUM)
JUDGE

HDK
List No.: 1 Sl No.: 16