IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 10402 OF 2022 (GM-CPC)

BETWEEN:

K. KUMAR,
S/O LATE KALYANAYK,
AGED ABOUT 46 YEARS,
DODDIGANAHAL HOSHATTI VILLAGE,
BHARAMASAGAR HOBLI,
CHITRADURGA TALUK AND DISTRICT - 577 519.
PRESENTLY R/O CHIKKAMAGALURU
DISTRICT - 577 101.

...PETITIONER

(BY SRI. GIRISH B BALADARE., ADVOCATE)

AND:

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

1. RATHNA BAI,
   W/O LATE MEGHYANAYKA,
   AGED ABOUT 57 YEARS,

2. KISHORNAYAK,
   S/O LATE MEGHYANAYKA,
   AGED ABOUT 28 YEARS,

3. RUDRI BAI,
   W/O LATE JAMULINGANAYKA,
   AGED ABOUT 67 YEARS,

4. NAGARAJ NAYKA,
S/O LATE JAMULINGANAYKA,
AGED ABOUT 29 YEARS,

5. RAMASINGH NAYAK,
W/O BHIMANAYK,
AGED ABOUT 29 YEARS,
R/O GANGUBAI NILAYA,
NEAR AIROPLANE BUILDING,
J.J. HATTI,
CHITRADURGA TOWN - 577 501.

DEFENDANT NO.1 TO 4 ARE
R/O DODDIGANAHAL HOSHATTI VILLAGE,
BHARAMASAGAR HOBLI,
CHITRADURGA TALUK
AND DISTRICT - 577 519.

…RESPONDENTS

(R1 TO 5 SERVED AND UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ANNEXURE - E THAT THE ORDER DATED 23.11.2021 PASSED IN OS.NO.54/2020 ON THE FILE OF 2ND ADDL.CIVIL JUDGE AND JMFC AT CHITRADURGA ON IA NO.II FILED UNDER ORDER 6 RULE 17 CONSEQUENTLY ALLOW THE APPLICATION NO.II FILED UNDER ORDER 6 RULE 17 BY THE PETITIONER 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 VIJAYKUMAR A. PATIL

ORAL ORDER

1. This petition is filed challenging the order dated 23.11.2021 passed in O.S.No.54/2020 by the II Additional Civil Judge and J.M.F.C., Chitradurga on I.A.No.2 *(for short hereinafter referred to as 'Trial Court')*.

2. Heard Sri.Girish B Baladare, learned counsel appearing for the petitioner. The respondents, though served, there is no representation.

3. The petitioner has filed a suit against the respondents herein for permanent injunction. The respondents - defendants filed a detailed written statement denying the assertions made in the plaint. Thereafter, an application under Order VI Rule 17 of Code of Civil Procedure, 1908 *(for short hereinafter referred to as 'CPC')* was filed by the petitioner - plaintiff seeking amendment of the plaint to incorporate additional prayer as well as the additional paragraphs in the plaint, which was opposed by the defendants. The Trial Court under the

impugned order rejected the said application on the sole ground that the petitioner - plaintiff intended to introduce new facts and fill up the lacuna.

4. It is to be noticed that the application seeking amendment is filed by the plaintiff before commencement of the trial. The proposed amendment indicates that the petitioner intends to narrate the flow of title from his grand father to him in the paragraphs proposed to be added in the plaint. The petitioner also sought an additional prayer for declaration that he is the absolute owner of the property.

5. A perusal of the averments made in the proposed amendment would clearly indicate that the proposed amendment is better explanation to the existing pleading and an additional prayer for declaration. In my considered view, the said application is filed at an earlier stage before commencement of the trial and the question of filling the lacuna would not arise as evidence is not yet commenced.

6. In my considered view, no prejudice or hardship would be caused to the other side, if the amendment is allowed, instead of asking the plaintiff to file another suit for declaration. The ends of justice would be met, if the proposed amendment is allowed by permitting the defendants to file additional written statement, if any. For the aforementioned reasons, I proceed to pass the following;

ORDER

(i) The writ petition is ***allowed***.

(ii) The impugned order dated 23.11.2021 passed in O.S.No.54/2020 by the II Additional Civil Judge and J.M.F.C., Chitradurga is *set-aside*. Consequently, I.A.No.2 filed by the plaintiff under Order VI Rule 17 of CPC is allowed.

(iii) The plaintiff shall file the amended plaint immediately and thereafter, the respondents

are at liberty to file the additional written statement, if any.

No orders as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

GH
List No.: 1 Sl No.: 37