HC-KAR
NC: 2026:KHC:60060
WP No. 11164 of 2026
CNR: KAHC010242702026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 11164 OF 2026 (GM-CPC)

BETWEEN:

M/S CLIVE STUD FARM
SITUATED AT
NIMBEKAIPURA VILLAGE,
BIDARAHALLI HOBLI,
HOSKOTE TALUK,
BANGALORE RURAL DISTRICT -560 049

A PROPRIETORSHIP CONCERN
REPRESENTED BY ITS PROPRIETOR
SRI. P. SATISH PAI
S/O. LATE NARASIMHA PAI,
ITS AGED ABOUT 79 YEARS
HAVING POSTAL ADDRESS
AT NO. 10/1, GROUND FLOOR,
LAKSHMINARAYANA COMPLEX,
PALACE ROAD,
BANGALORE- 560 052

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

...PETITIONER

(BY SRI. CHANDAN K., ADVOCATE)

AND:

1. SMT B.R.RATHNA
W/O. SRI. M. NARAYANA MURTHY
AGED ABOUT 60 YEARS
RESIDING AT NO. 342,
NEW NO. 9, RAM SHRI MUGALI
HANUMANTHNAGAR, ROAD,
7TH CROSS, 9TH MAIN,

BANGALORE 560 019

2. SMT.B.R. VENKATALAKSHMI
W/O. LATE RANGASWAMY
AGED ABOUT 57 YEARS
RESIDING AT NO.155/51,
3RD CROSS, 1ST MAIN ROAD,
HANUMANTHNAGAR,
BANGALORE 560 019

3. SMT. B.R. SUSHEELA
W/O. SRI. RAMAKRISHNA
AGED ABOUT 56 YEARS
RESIDING AT NO. 52/38,
1ST A CROSS,
1ST MAIN ROAD, MARENAHALLI,
VIJAYANAGAR,
BANGALORE - 560 040

…RESPONDENTS

(BY SRI. RAMESH GOWDA A., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR ORDER OR DIRECTION IN THE NATURE OF CERTIORARI, QUASHING THE IMPUGNED ORDER DATED 30/08/2025, WHICH IS ANNEXED AS ANNEXURE A TO THIS WRIT PETITION PASSED BY LEARNED CIVIL JUDGE AND JMFC, KRISHNARAJAPURA ON AN APPLICATION IA NO. VII FILED BY THE PETITIONER UNDER ORDER VI RULE 17 R/W. SECTION 151 OF CPC, IN O.S NO. 538/2025 (EARLIER OS NO. 493/2012) AND ALLOW THE APPLICATION FILED UNDER ANNEXURE - P.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 02.09.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

The present writ petition is filed aggrieved by the order passed on I.A.No.7 in OS.No.538/2025 (earlier OS.No.493/2012) dated 30.08.2025 by the Civil Judge & JMFC, Krishnarajapura, the plaintiff is before this Court.

2. Initially, the petitioner herein filed a suit for an injunction. Later, in 2025, he filed an application under Order VI Rule 17 R/w Section 151 of the CPC seeking to amend the plaint. By way of the amendment, he seeks to include an averment that since 1985 he has been in continuous, uninterrupted possession of the suit property, specifically the stud farm, with the defendant's knowledge. He claims that, by adverse possession, he has perfected title and become the owner of the suit property. Accordingly, he seeks to incorporate a prayer for a declaration of ownership by adverse possession. The trial court, by the impugned order, dismissed the application with costs of Rs.5,000/-.

3. While dismissing the application, the trial court observed that the suit was filed in 2012 and that the amendment is sought only in 2023, after a lapse of 11 years.

The plaintiff's explanation that the earlier legal position did not allow plaintiffs to raise a plea of adverse possession is unconvincing. Even assuming the legal position was unclear, the plaintiff has not explained why he did not seek such an amendment earlier after the decision in the case of ***Ravinder Grewal & Ors Vs. Manjit Kaur & Ors***[1]. Furthermore, as per the proviso to Order VI Rule 17, once the trial has commenced, no amendment shall be allowed unless the court is satisfied that, despite due diligence, the party could not have raised the matter before the commencement of trial. In the present case, no averment or material has been placed on record to establish due diligence. The plaintiff has not demonstrated any genuine reason for failing to raise this plea earlier. The original suit is for an injunction based on possession. The proposed amendment seeks to introduce a claim of title, which is completely a different cause of action. Permitting such an amendment would change the fundamental nature and character of the suit. It is well-settled law that an amendment that changes a cause of action or introduces a new and inconsistent case that alters the nature of the suit cannot

[1] [1] AIR 2019 SC 3827

ordinarily be allowed. The plea of adverse possession is time-bound and requires satisfaction of specific statutory conditions. The plaintiff now seeks to claim ownership by adverse possession based on events that occurred over 30 years ago. Introducing such a plea after 13 years of litigation and at a time when the original suit has proceeded substantially would clearly be barred by limitation. An amendment that seeks to introduce a time-bound claim cannot be allowed. Allowing the amendment would prejudice the defendants, who have contested the case for over a decade based on the plaintiff's original claim of possession. They would not be required to meet an entirely new case based on adverse possession, which entails new pleadings, evidence, and possibly different legal defenses. Hence, the trial court is of the view that the amendment cannot be allowed and dismissed the application with costs.

4. Learned counsel appearing for the petitioner submits that the trial court has committed error while dismissing the application of the petitioner. If it is not allowed, it would cause irreparable loss. It is a specific case of the petitioner that he

had filed the application seeking to add a relief based on the change of law. In view of the judgment of the Hon'ble Apex Court in the case of ***Ravinder Grewal's case*** referred supra which allowed the parties to claim adverse possession both as a shield and sword. Therefore, the parties can claim adverse possession to claim ownership of the property by filing a declaratory suit. The perusal of the amended plaint more particularly paragraph No. 16 a to c it is specifically pleaded that the respondents were aware of the efforts of Mr. Jarvis Kottawala and this petitioner to protect their title and possession of the scheduled property by openly conducting themselves in a manner hostile to the title of the respondents and that Mr. Jarvis had already made his intention clear about setting up adverse title by filing Form No.7 before the Land Tribunal. Having regard to the controversy between the petitioner and the respondents, and to fully and finally adjudicate the dispute between the parties, the application filed by the petitioner ought to have been allowed. It is submitted that the learned Judge failed to appreciate that the evidence of the petitioner has not yet commenced, and the respondent has

an opportunity to rebut the evidence. The learned Judge dismissed the application on the ground that the proposed amendment would change the cause of action and present a new and inconsistent case, thereby altering the nature of the suit. This reasoning is not a proper application of mind and is misconceived. He relied on the Judgment of the Co-ordinate Bench of this Court in the case of ***Akkamahadevi Vs. G.R.Rudraradhya and others*** arising out of WP.No.7524/2022 dated 22.08.2022. He relied on paragraph No.9, which read as follows:

> ***"9. A perusal of the plaint definitely discloses that the plaintiffs had laid the foundation to claim the relief of declaration of title by adverse possession. It could be that, at that point in time, the relief of adverse possession could not be claimed as the main relief in a suit. In view of the authoritative pronouncement of the law in Grewal's case quoted supra, plaintiffs can now claim the relief of adverse possession. In the present case, the plaintiffs could have claimed the relief earlier but have waited for the suit to meander towards final arguments and have then filed the application."***

Learned counsel has also relied on the judgment of the Apex Court in case of ***Karam Singh Vs. Amarjit Singh and others***[2]. He relied on paragraph No.23 which read as follow:

> ***"23. At this stage, we may observe that the High Court while deciding the revision has failed to consider the plaint averments in its entirety and was swayed only by the fact that will set up was 36 years old. It overlooked that will operates only on the death of the testator and here, after the death of the testator, the validity of the will was throughout questioned in mutation proceedings which continued and, ultimately, settled in the year 2017. In between, whether the defendants perfected their title by adverse possession would be a mixed question of law and fact and can appropriately be addressed only after evidence is led. The same cannot be made basis to reject the plaint at the threshold. In our view, therefore, the order passed by the High Court cannot be sustained and the same is liable to be set aside. The appeals are, therefore, allowed. The impugned judgment and order(s) of the High Court are set aside. The order of the trial court rejecting the prayer to reject the plaint under Order 7 Rule 11 CPC is restored. The trial court shall proceed with the suit and bring the proceedings to its logical conclusion in accordance with law. It is made clear that any observation made by us shall not be taken as an opinion on the merit of the issues which may arise for consideration in the course of the suit proceedings. We clarify that we have addressed***

[2] AIR 2025 SC 5041

those issues only with a view to find out whether it was a fit case for rejection of the plaint under Order 7 Rule 11 of CPC."

Relying on these judgments it is submitted that the order impugned needs to be set aside and consequently the amendment application has to be allowed.

5. Learned counsel appearing for the respondent/defendant submits that the petitioner, without disclosing the true and correct facts and by suppressing the true facts, obtained the interim order on 15.04.2026, and that the interim order is liable to be vacated. It is stated that the suit is directed to be disposed of within one year, as directed by this court in WP.No.19520/2024 dated 31.07.2024. It is submitted that the third application filed by the petitioner under Order VI Rule 17 of the CPC is not maintainable and is hit by the principles of res judicata, and that the petitioner had not filed the application in issue with the leave of the court. The petitioner is in the habit of dragging the proceedings without merit. The present application in issue is the third application filed by the petitioner on the same grounds and similar

contentions, and it is a typical petitioner's delay tactic that prevents the case from proceeding on merits. It is submitted that the respondent's right over the land was interfered with by the proprietor of the purported petitioner herein. The respondent filed a suit for injunction in OS.No.603/2011 (new OS.No.83/2025), pending on the file of the Addl. Civil Judge, K.R.Purum, Bangalore Rural District. The petitioner herein sought to implead in the suit, but on the orders of the High Court the same was dismissed. Subsequently, without disclosing the above fact, the petitioner filed the suit for injunction in OS.No.538/2025 (old OS.No.493/2012), pending on the file of the Addl. Civil Judge, Krishnarajapuram, Bangalore Rural District. It is submitted that out of 12 survey numbers, confines his target to only 2 survey numbers absolutely belonging to the respondents. The suit is now set down for further cross-examination, and now the petitioner approached this court after 7 months of the passing of the impugned order. It is submitted that after instituting the case in 2012, the petitioner came up with an application for amendment on 21.06.2014 to amend the pleading with a new

case and a new prayer of adverse possession. The respondents filed detailed objections. The petitioner dragged the proceedings for several months and ultimately filed a memo on 03.08.2016 with a prayer not to press or dismiss IA.No.4. The said IA.No.4 was dismissed as not pressed, and no leave was sought nor was granted for a fresh application, and it attained finality. Now it is not open for the petitioner to seek similar relief in a new modified application. Subsequently, the petitioner filed another application under Order VI Rule 17 of CPC seeking amendment of pleadings on 13.07.2017. The respondents filed detailed objections. The petitioner dragged the same for nearly 5 years. The petitioner introduced new pleadings in the plaint.

6. It is the case of the respondent that on 25.03.2023, the petitioner filed another application to amend the plaint, praying for amendment of the pleadings and incorporation of a new prayer for adverse possession. The respondent filed detailed objections and contended that the very application of the petitioner is liable to be rejected at the threshold because the petitioner's earlier application seeking incorporation of a

prayer for adverse possession was rejected as withdrawn, and the petitioner cannot seek the same prayer without leave of the court. They also contended that the application is highly belated and, if allowed, would date back to the filing of the plaint, thereby prejudicing the defense and the rights of the defendants. It is submitted that this is a pureabuse of process of law and that the same has to be dismissed. The respondent had relied on the judgment of the Apex Court in the case of ***Dinesh Goyal alias Pappu Vs. Suman Agarwal***[3] relied at para No.11 which reads thus:

> ***"11.2*** ** ***
>
> ***(iii) Amendments, while generally should be allowed, the same should be disallowed if:-***
>
> ***(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.***
> ***(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)***
>
> ***(c) The amendment completely changes the nature of the suit;***
> ***(d) The prayer for amendment is malafide,***
> ***(e) By the amendment, the other side should not lose a valid defence.***

[3] AIR Online 2019 MP 2047

> ***(iv) Some general principles to be kept in mind are –***
>
> > ***(I) The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.***
> >
> > ***(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.***
> >
> > ***(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint."***

Learned counsel also relied on the judgment of ***K.Raheja Constructions Ltd & Another Vs. Alliance Ministries and others[4].*** He relied on paragraph No. 4.

> ***"4. It is seen that the permission for alienation is not a condition precedent to file the suit for specific performance. The decree of specific performance will always be subject to the condition to the grant of the permission by the competent authority. The petitioners having expressly admitted that the respondents have refused to abide by the terms of the contract, they should have asked for the relief for specific performance in the original suit itself. Having allowed the period of seven years elapsed from the date of filing of the suit, and the period of limitation being three years under Article 54 of***

[4] AIR 1995 Supreme Court, 1968

the Schedule to the Limitation Act, 1963, any amendment on the grounds set out, would defeat the valuable right of limitation accrued to the respondent."

Relying on the above judgments it is submitted that the writ petition has to be dismissed with exemplary costs.

7. Having heard the learned counsel on either side, perused the entire material on record. The question that falls for consideration is:

"Whether the existence of averments relating to hostile possession in the original plaint still justifies permitting the plaintiff to introduce a substantive declaration of title after the considerable lapse of time?"

Order VI Rule 17 of the CPC confers wide discretion upon the Court to permit amendments necessary to determine the real controversy between the parties. The provision is intended to advance the cause of justice, but it does not confer an unrestricted right upon the litigant to alter the scope of proceedings at any stage of their choice. The nature of the amendment, the explanation for seeking it belatedly, and the prejudice likely to be caused to the opposite party are relevant considerations. Where the trial has commenced, the proviso

imposes the additional requirement that the party must establish that, despite due diligence, the matter would not have been raised earlier. The Hon'ble Apex Court in the case of ***Life Insurance Corporation of India Vs. Sanjeev Builders Pvt Ltd***[5] explained that amendments necessary for effective adjudication should ordinarily be permitted even when there has been some delay. At the same time, the Court recognized that an amendment which changes the nature of the suit, introduces a time-barred claim, or deprives the opposite party of a valuable defense stands on a different footing. What matters is not the mere passage of time, but the effect of the amendment upon the controversy which the parties have been litigating. In the present case, the plaintiff was aware from the beginning that its predecessor had entered into the registered lease deed, it was equally aware of the expiry of the lease and the defendant's assertion of rights over the properties. The plaint itself alleges that the position of the persons conducting the stud farm had become hostile to the landowners. These facts were not discovered during the pendency of the suit. Notwithstanding such knowledge, the plaintiff chose to institute

[5] (2022) 16 SCC 1

a suit for permanent injunction seeking protection against interference with its alleged possession. The proposed amendment cannot be treated as a mere clarification of that claim. The original suit requires the Court to determine whether the plaintiff was in possession and whether the alleged interference justified protection by way of injunction. A declaration of title by adverse possession involves a different enquiry. The plaintiff must establish when possession, which admittedly commenced under lease, became hostile to the title of the landlords, how that hostile assertion was brought to their knowledge, and whether possession continued in the manner required by law for the prescribed period. Reliance has been placed upon the decision of this Court in ***Akkamaha Devi case*** referred supra. In that case, the plaintiff had already instituted a suit for declaration of title and consequential injunction.

8. An amendment seeking declaration of title by adverse possession was permitted having regard to the existing pleading and the decision of the Supreme Court in the ***Ravinder Grewal case*** referred supra. The Court found it appropriate to permit the amendment for complete adjudication

while restricting the plaintiff from leading further evidence and awarding the defendants costs. The distinction is that ownership was already the subject of adjudication in that suit. In the present case, the proposed amendment seeks to introduce that controversy for the first time. It is a suit instituted solely for an injunction. It is true that in ***the Ravinder Grewal's case*** referred supra, the Supreme Court recognized the right of a person claiming to a perfect title by adverse possession to seek a declaration on that basis. Before that decision, the prevailing understanding of the law did not permit adverse possession to serve as the basis for an affirmative claim to ownership. This development in the law is relevant to the plaintiff's request. Nevertheless, the decision was rendered in 2019, whereas the amendment has been sought nearly 6 years thereafter. Recognition of a substantive remedy does not dispense with the procedural requirement governing an amendment. The Court must still be satisfied that permitting the new relief at this stage is justified. In the case of ***Dinesh Goyal @ pappu's*** **case** referred supra. The Supreme Court permitted an amendment questioning the genuineness of

the Will in a pending partition suit. The genuineness of the Will was directly relevant to determine the parties' entitlements, and the amendment enabled adjudication of the controversy already before the court. The decision does not suggest that every amendment founded on facts mentioned in the plaint must necessarily be allowed, irrespective of the nature of the additional relief or the stage at which it is sought.

9. The decision in ***K.Raheja Construction's case*** referred supra is concerned, in this case, the plaintiff initially filed a suit for an injunction and later sought to add a prayer for specific performance. All facts relating to the contract had already been pleaded. The Supreme Court declined the amendment, taking into account the expiration of the limitation period and the valuable right that had accrued to the defendant. The decision illustrates that the presence of factual averments in the original plaint does not necessarily make the introduction of a distinct, substantive relief permissible at any later stage. The delay and its effects on the defendant's rights are nevertheless relevant. The more comparable situation arose in ***Reparamoni Anand alias Shanthapuram Anand Vs.***

Shanthapuram Janathan Reddy[6] decided on 21.07.2025. The Supreme Court considered a suit originally instituted for injunction in 2008, in which an amendment was sought in 2022 to introduce a declaration of title and recovery of possession. The Court declined to permit the amendment, taking into account the substantial change in the nature of the suit, the long delay, and the implications of limitation. Although the relief proposed in that case also included recovery of possession, the decision emphasized that avoiding multiplicity of proceedings is not, by itself, a sufficient reason to permit a substantially enlarged claim in prolonged litigation. The decisions in **Karam Singh's case,** referred to supra, concern the rejection of a plaint under Order VII Rule 11 CPC on the ground of limitation. The Supreme Court held that a plaint seeking possession based on title could not be rejected by deciding the disputed questions relating to adverse possession at the threshold. The present proceedings concern the exercise of discretion under Order VI Rule 17. Hence, the judgment is not applicable to the facts of the case.

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[6] SLP (c) 6889/2024

10. The Court cannot lose sight of the fact that the plaintiff has been prosecuting a suit for permanent injunction since 2012. The proposed declaration is founded upon the same historical transactions and assertions of hostile possession that were known when the suit was filed. The plaintiff has not demonstrated any necessity arising from a subsequent event that requires the original controversy to be enlarged into an adjudication of prospective title. The fact that the defendants instituted the suit to remain in possession does not, by itself, necessitate the introduction of a declaration of ownership. The plaintiff's entitlement to the injunction originally sought can be examined upon the pleadings already available, and the delay cannot be viewed in isolation from the nature of the rights now sought to be asserted. The proposed amendment would require the defendants to meet a claim that their ownership has been extinguished by the plaintiff's hostile possession. This is substantially different from the defendant's suit alleging interference with possession. Permitting such an amendment after 13 years would enlarge the proceedings beyond the controversy which the parties have been contesting. The object

of Order VII Rule 17 CPC is to facilitate adjudication upon the real dispute, not to provide an occasion for introducing a substantially different claim merely because the litigation remains pending. Further, in this case, the plaintiff has filed successive applications, and some of them were not taken to a logical end. This Court finds force in the submission of the respondent/defendant that the plaintiff is coming up with these applications by using delaying tactics. Having regard to the nature of the original suit, the admitted origin of the possession under the lease deeds, the scope of the proposed declaration, and the considerable delay in seeking it, this Court is of the view that the trial court has rightly dismissed the application, and this Court does not find any reason to interfere with the well-considered order. In that view of the matter, this Court is passing the following:

ORDER

i. Accordingly, the writ petition is ***dismissed***.

ii. It is made clear that this Court has not expressed anything on the merits of the matter and none of the observations shall be

construed as an expression of the Court on the merits of the matter.

iii. Pending IAs., this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

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