HC-KAR

NC: 2026:KHC:2629
WP No. 6358 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 6358 OF 2020 (GM-CPC)

BETWEEN:

1. SRI T S CHELUVARAJU
   S/O LATE SRINIVAS
   AGED ABOUT 66 YEARS,
   RESIDING AT SRIRAMA TEMPLE
   MAIN ROAD 19TH WARD
   SRIRAMANAGARA
   TUMKUR CITY-572101
   NOTE SENIOR CITIZEN BENEFIT NOT CLIAMED

...PETITIONER

(BY SRI. HANUMANTHARAYAPPA.K., ADVOCATE)

AND:

1. SMT. GAYATHRI
   D/O LATE LAKSHMANASINGH
   AGED ABOUT 54 YEARS,
   RESIDING AT SRIRAMA TEMPLE MAIN ROAD,
   19TH WARD SRIRAMANAGARA
   TUMKUR CITY-572101

2. SRI. SUNDAR
   S/O LATE LAKSHMANSINGH
   AGED ABOUT 50 YEARS,
   RESIDING AT SRIRAMA TEMPLE MAIN ROAD,

19TH WARD SRIRAMANAGARA
TUMKUR CITY-572 101

3. SMT. KOWSALYA
S/O LATE LAKSHMANSINGH
AGED ABOUT 46 YEARS,
RESIDING AT
SRIRAMA TEMPLE MAIN ROAD
19TH WARD SRIRAMANAGARA
TUMKUR CITY-572 101

4. SMT. LAKSHMI
W/O SUNDAR
AGED ABOUT 44 YEARS,
RESIDING AT SRIRAMA TEMPLE MAIN ROAD,
19TH WARD SRIRAMANAGARA
TUMKUR CITY-572101

...RESPONDENTS

(V/O DATED 25.01.2025, LR'S OF R1 ARE ALREADY ON RECORD; R2 AND R3 ARE SERVED, V/O DATED 03.02.2025, NOTICE TO R4 IS DISPENSED WITH)

THIS W.P. FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 7.9.2019 ON I.A.NO. NIL IN O.S.NO.325/2015, PASSED BY THE LEARNED ADDL. CIVIL JUDGE, AT TUMAKURU AS CONTAINED UNDER ANNX-E AND ALLOW THE APPLICATION FOR AMENDMENT.

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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

1. The present petition seeks to challenge an order dated 07.09.2019 on I.A.No.Nil in O.S.No.325/2015 passed by the learned Additional Civil Judge, at Tumakuru, Nagamangala [hereinafter referred to as the "Impugned Order"].

2. By the Impugned Order, an application filed under Order 6 Rule 17 of C.P.C., by the petitioner/plaintiff seeking permission to amend the plaint schedule by deleting the existing schedule and in its place insert the schedule as prayed in the application, has been dismissed by the learned Trial Court.

3. None appears for the respondents despite service.

4. Given the pendency of the matter since the year 2020, and the limited issue involved, this Court deems it appropriate to hear and decide the petition today.

5. Learned counsel for the appellant submits that this amendment is requisite since he only came to know about the

change in the measurement after the written statement was filed, thus the amendment should be allowed. He further submits that the Supreme Court has held that the courts should be liberal while granting amendments.

6. The learned Trial Court after examining the application and the objections raised has found that, the application was filed belatedly since the suit was filed in the year 2015 and the written statement was also filed in the year 2015 itself. Since the matter was at the stage of evidence, the proviso to Order VI Rule 17 of C.P.C. would come into play. It is thus, held that in terms of the proviso, the petitioner/plaintiff has failed to show that he exercised due diligence and could not have filed the application earlier. Thus, it was held that the application has no merit and is rejected.

7. The record reflects that the suit was filed for permanent injunction by the petitioner/plaintiff in respect of a suit schedule property in the year 2015, and the written statement was also filed in the year 2015. However, 4 years later, an application under Order VI Rule 17 of CPC was filed by the petitioner/plaintiff stating that the measurement and the proper

boundaries which are mentioned in the suit schedule property needs to be amended.

8. It is apposite also to set out the amendment as sought for and the reasons for amendment is are stated in the application below:

> *"I submits that, I am in possession of the entire property i.e. application schedule property as well as suit schedule property, subsequently the TMP, Tumkur, have measured the property as per the Regd. Sale deed dated: 26.05.1920 and assigned the katha to the application schedule property, which is subject matter, however in the said sale deed there was no measurement and mentioned only boundaries, and subsequent measurement made by the TMP Tumkur, have mentioned the measurement proper boundaries which is mentioned in the application, and the defendants are trying to interfere with the said application schedule property, and the katha of the said property stood in my name,* ***hence it is necessary to amend the schedule as sought in the application by deleting the previous entire property and to insert in its place the effected area of the property for proper adjudication. Hence it is just and necessary that the Hon'ble court may kindly be pleased to permit me to amend the plaint schedule as sought in the application, in the ends of justice and equity."***
>
> [Emphasis supplied]

9. At this stage, it is apposite to set out Order VI Rule 17 of C.P.C whichreads as follows:

> *"**17. Amendment of pleadings**. - The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:*
>
> ***Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."***
>
> [Emphasis supplied]

10. The proviso to Order VI Rule 17 of C.P.C,sets out that once the trial has commenced in a matter, an application shall not be allowed unless the court comes to the conclusion that the party seeking the amendment could not have filed such application earlier.

11. The record reflects that, although the trial had been fixed, the evidence of the plaintiff had yet not commenced by the parties. However, learned counsel for the petitioner further submits that he does not have any documents in support of the amendment either. Given this contention, this Court is not inclined to interfere with the Impugned Order.

12. No doubt that it is settled law that ordinarily the courts have to be liberal while granting amendment to pleadings. However, in the present case, when the petitioner does not have any documents in support of the amendment sought, the remedy of the petitioner would be to file appropriate proceedings in accordance with law and not an application for amendment.

13. The writ petition is accordingly dismissed. All pending applications stand closed.

14. The order however does not preclude the petitioner from taking appropriate remedies in accordance with law for redressal of his grievances.

Digitally signed by TARA VITASTA GANJU
Location: HIGH COURT OF KARNTAKA

(TARA VITASTA GANJU)
JUDGE

HR
List No.: 1 Sl No.: 20