Reserved on: 21.09.2026
Pronounced on: 03.11.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 24066 OF 2026 (GM-CPC)

BETWEEN:

1. SRI M R SHIVAKUMAR,
   S/O LATE RAJASHEKARAPPA,
   AGED ABOUT 60 YEARS,

2. SRI. M.R. JAGADISH,
   S/O LATE RAJASHEKARAPPA,
   AGED ABOUT 58 YEARS,

3. SRI. M.R. GOWRISHANKAR,
   S/O LATE RAJASHEKARAPPA,
   AGED ABOUT 53 YEARS,

   PETITIONER No.1 TO 3 ARE
   R/AT 2ND CROSS, R.R. ROAD,
   DOOMLIGHT, MAGADI TOWN,
   RAMANAGARA DISTRICT-562120.

...PETITIONERS

(BY SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SRI RAMESHA T. R., ADVOCATE)

Digitally signed by VINUTHA B S
Location: High Court of Karnataka

AND:

1. SRI RENUKA PRASAD,
   S/O KARIBASAPPA,
   AGED ABOUT 60 YEARS,

2. SRI. RUDRESH,
S/O SIDDAGANGAPPA,
AGED ABOUT 52 YEARS,
R/AT NO. 19, 5TH CROSS,
PIPELINE ROAD, VIJAYANAGARA,
BANGALORE -560 023.

3. SMT. NAGAMMA.
D/O LATE SOMASHEKARAPPA,
AGED ABOUT 65 YEARS,
R/AT KANNALLI VILLAGE,
YESHWANTHAPURA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU-560 091.

4. SMT. PARVATHAMMA,
D/O LATE SOMASHEKARAPPA
AGED ABOUT 63 YEARS,
R/AT NO. 178, 1ST BLOCK,
19TH MAIN, RAJAJINAGAR,
BENGALURU -560 010.
SINCE DEAD BY LRS

SMT.NIRMALA B.B,
W/O UDAYA KUMAR B.S,
AGED ABOUT 53 YEARS,
R/AT NO.15, NEAR GOVT. HOSPITAL,
BETTAHALSUR, BENGALURU NORTH,
BENGALURU-562157.

5. SMT. LATHA VINAYAK KULLAHALLI,
W/O VINAYAK KULLAHALLI,
AGED ABOUT 40 YEARS,
R/AT ANUGRAHA NILAYA,
NEAR BGS WORLD SCHOOL,
NELAMANGALA, BENGALURU NORTH,
BENGALURU-562123.

6. SMT. JYOTHI B. B.,
W/O RAJESH B.G,
AGED ABOUT 38 YEARS,
R/AT NO.466, BETTAHALSUR,
NEAR SAI VIDYA MANDIR SCHOOL,
BENGALURU-562157.

7. SMT. KUSUMA,
D/O PARVATHAMMA,
AGED ABOUT 31 YEARS,
RESIDING AT NO. K-178,
1ST BLOCK, 19TH MAIN,
RAJAJINAGAR, BANGALORE-560 010.

8. SRI. CHANDRASHEKARAIAH,
MAJOR IN AGE,
S/O. LATE RAJASHEKARAPPA,
RESIDING AT KANNALLI VILLAGE,
KODAGEHALLI PANCHAYATH,
YESHWANTHAPUR HOBLI,
VISHWANEEDAM POST,
BANGALORE-560 091.

9. SMT. UMADEVI,
W/O. LATE GURUMALLAPPA,
MAJOR IN AGE,
RESIDING AT KANNALLI VILLAGE,
KODAGEHALLI PANCHAYATH,
YESHWANTHAPUR HOBLI,
VISHWANEEDAM POST
BANGALORE-560 091.

10. SMT. HEMAVATHI,
D/O. LATE GURUMALLAPPA,
MAJOR IN AGE,
RESIDING AT KANNALLI VILLAGE,
KODAGEHALLI PANCHAYATH,
YESHWANTHAPUR HOBLI,
VISHWANEEDAM POST,
BANGALORE-560 091.

11. SRI. SIDDALINGASWAMY,
S/O. LATE GURUMALLAPPA,
MAJOR IN AGE,
RESIDING AT KANNALLI VILLAGE,
KODAGEHALLI PANCHAYATH,
YESHWANTHAPUR HOBLI,
VISHWANEEDAM POST,
BANGALORE-560 091

12. SMT.MAMATHA,
D/O. LATE GURUMALLAPPA,
MAJOR IN AGE,
RESIDING AT KANNALLI VILLAGE,
KODAGEHALLI PANCHAYATH,
YESHWANTHAPUR HOBLI,
VISHWANEEDAM POST,
BANGALORE-560 091.

13. SRI. GURUSHANTHAPPA,
S/O. LATE GURUMALLAPPA,
MAJOR IN AGE,
RESIDING AT KANNALLI VILLAGE,
KODAGEHALLI PANCHAYATH,
YESHWANTHAPUR HOBLI,
VISHWANEEDAM POST,
BANGALORE-560 091

14. SMT. SHARADAMMA,
W/O. LATE RAJASHEKARAPPA,
MAJOR IN AGE,
RESIDING AT 2 CROSS,
R.R. ROAD, NEAR DOME LIGHT,
MAGADI, BANGALORE RURAL-562 120

15. SMT. VIMALAMBIKE,
D/O. LATE RAJASHEKARAPPA,
MAJOR IN AGE RESIDING AT
2ND CROSS, R.R.ROAD, NEAR DOME LIGHT,
MAGADI BANGALORE RURAL-562 120

16. SMT. HEMAVATHI,
D/O. LATE RAJASHEKARAPPA,
MAJOR IN AGE,
RESIDING AT 2ND CROSS,
R.R.ROAD, NEAR DONME LIGHT, MAGADI
BANGALORE RURAL-562 120

17. SRI. M.R.SHIVAKUMAR @ PRAKASH,
S/O. LATE RAJASHEKARAPPA,
MAJOR IN AGE,
R/AT 2ND CROSS, R.R.ROAD,
NEAR DOME LIGHT, MAGADI
BANGALORE RURAL-562 120

18. SMT.INDRANI,
D/O. LATE RAJASHEKARAPPA,
MAJOR IN AGE,
RESIDING AT 2ND CROSS,
R.R.ROAD, NEAR DOME LIGHT,
MAGADI, BANGALORE RURAL-562 120

19. SRI JAGADISH,
S/O. LATE RAJASHEKARAPPA,
MAJOR IN AGE,
RESIDING AT 2ND CROSS,
R.R. ROAD, NEAR DOME LIGHT,
MAGADI, BANGALORE RURAL-562 120

20. SRI. SHANKAR,
S/O. LATE RAJASHEKARAPPA,
MAJOR IN AGE,
RESIDING AT 2ND CROSS,
R.R. ROAD, NEAR DOME LIGHT,
MAGADI BANGALORE RURAL-562 120

21. SMT.JAGADAMBIKE,
D/O. LATE SIDDAGANGAPPA,
MAJOR IN AGE,
RESIDING AT 6445,
BEHIND MUNICIPAL QUARTERS,
SUASHNAGAR, NELAMANGALA,
BANGALORE-562 123

22. SMT.SHIVARATHNA,
D/O. LATE SIDDALINGAPPA,
MAJOR IN AGE,
RESIDING AT OPP NO. 733,
NETHAJINAGAR,
BANGALORE-560 057

23. SMT.HEMALATHA,
D/O. SRI. KARIBASAPPA,
MAJOR IN AGE,
C/O. REVANASIDDAPPA,
NETHAJINAGAR,
BANGALORE-560 079

24. SMT.VASANTHA,
D/O. SRI. KARIBASAPPA,
MAJOR IN AGE,
C/O. SIDDARAMANNA,
(RETIRED TAHSILDAR)
ASHOK NAGAR,
9TH MAIN, 2ND CROSS,
TUMKUR-572 102

25. SMT. HEMALATHA,
W/O. KUMARASWAMY, (LATE),
MAJOR IN AGE,
RESIDING AT NARASANDRA VILLAGE,
NARASANDRA POST,
SOLUR SUB-POST,
BANGALORE-562 127

26. MISS.RUPA,
D/O. LATE KUMARASWAMY,
MINOR-5 YEARS,
REPRESENTED BY HER MOTHER,
SMT. HEMALATHA AS
NATURAL GUARDIAN,
RESIDING AT NARASANDRA VILLAGE,
NARASANDRA POST,
SOLUR SUB-POST,
BANGALORE-562 127

27. THE COMMISSIONER,
BANGALORE DEVELOPMENT AUTHORITY,
T. CHOWDAIAH, ROAD,
KUMARA PARK WEST,
BANGALORE-560 020

28. SRI. SRINIVASA MURTHY,
S/O. LATE THIRUMALAGIRI GOWDA,
AGED ABOUT 38 YEARS,
RESIDING AT KODABORANAHALLI,
HULIYUR DURGA HOBLI,
KUNIGAL TALUK,
TUMAKUR DISTRICT.

29. SRI.KUMARASWAMY,
S/O. BORAIAH,

AGED ABOUT 38 YEARS,
RESIDING AT NO. 274,
1ST N CROSS, 1STBLOCK,
2ND STAGE, NAGARABHAVI,
BANGALORE-560 072

30. SMT.SUJATHA SHIVARAJU,
W/O. SRI. SHIVARAJU,
AGED ABOUT 43 YEARS,
R/AT NO. 298, 8TH CROSS,
6TH BLOCK, II STAGE,
NAGARABHAVI,
BANGALORE-560 072

…RESPONDENTS

(BY SRI K.N. PHANINDRA, SENIOR COUNSEL FOR
SMT. P.C. VINITHA, ADVOCATE R1;
SRI ANANTHA J., ADVOCATE FOR R2 AND R3;
SRI K.V. NARASIMHAN, ADVOCATE FOR R22)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 01.06.2026 PASSED IN OS.NO.786/2007, PASSED BY HON'BLE VII ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, BENGALURU RURAL AT BENGALURU AS PER ANNEXURE-A, ON I.A.NO. 28 AND 29, BY ALLOWING THE IAS WHICH IS PRODUCED AT ANNEXURE B AND B1.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. ORDER

This writ petition is filed impugning the order dated 01.06.2026 in O.S. No.786/2007 passed on an application filed under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC'). The petitioners are defendant Nos.13, 15 and 16 before the Trial Court. Respondent No.1-plaintiff instituted O.S. No.786/2007 seeking partition and separate possession in respect of the suit schedule properties. The plaintiff filed I.A. Nos.28 and 29 under Order VI Rule 17 of the CPC, seeking amendment of the pleadings and the prayer. The Trial Court, having considered that the proposed amendment was necessary for the comprehensive and complete adjudication of the dispute between the parties, allowed the applications.

2. Learned counsel appearing for the petitioners submits that the suit was originally instituted as O.S. No.15001/2004 for partition and separate possession, which was subsequently renumbered as O.S. No.786/2007. It is submitted that, after the examination-in-chief of PW.1 was recorded on 28.11.2018, an application under Order VI Rule 17 of the CPC came to be filed, which was allowed and the

amendment was permitted. Thereafter, the plaintiff adduced additional evidence and marked additional documents. It is submitted that, subsequently, the present applications in I.A. Nos.28 and 29 seeking amendment were filed. The Trial Court, however, erroneously entertained the said applications.

3. Learned counsel submits that the proposed amendment seeks to challenge the registered Will dated 13.05.1985 and the partition deed dated 20.07.2003. Learned counsel submits that the execution of the registered Will dated 13.05.1985 has been admitted in the plaint and that pleadings have also been made insofar as the partition deed dated 20.07.2003 is concerned. It is submitted that the prayers sought to be introduced by way of amendment are intended to delay the proceedings and dilute the admission made in the plaint. It is further submitted that the reliefs sought by way of amendment are also hit by limitation.

3.1 Learned counsel submits that, despite the registered Will dated 13.05.1985 and the partition deed dated 20.07.2003 being within the knowledge of the plaintiff, the applications have been filed after a lapse of 18 years, with a fraudulent intention to deprive the parties of their rights in the

joint family suit schedule properties. In support of the submissions, learned counsel places reliance on the judgment of Hon'ble Supreme Court in the case of ***Basavaraj v. Indira and Others***[1].

4. Per contra, learned counsel appearing for the respondents submits that, when the applications for amendment were filed, the trial in the suit had not commenced and the matter was at the stage of examination of PW.1. It is submitted that any amendment which is relevant for the adjudication of the dispute between the parties is required to be construed liberally, so as to avoid multiplicity of proceedings and facilitate comprehensive and complete adjudication of the dispute. In that view of the matter, learned senior counsel places reliance on the judgments of the Hon'ble Supreme Court in ***Ragu Thilak D. John v. S. Rayappan and Others***[2]; ***Pankaja and Another v. Yellappa (Dead) by LRs. and Others***[3]; and ***Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Another***[4]***.***

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[1] ***(2024) 3 SCC 705***

[2] ***(2001) 2 SCC 472***

[3] ***(2004) 6 SCC 415***

[4] ***(2022) 16 SCC 1***

5. Considered the submissions made by learned senior counsel appearing for both the parties and perused the writ papers and the impugned order.

6. It is evident from the record that the suit in question was instituted on 01.01.2004 and was numbered as O.S. No.15001/2004. Thereafter, the said suit came to be transferred and renumbered as O.S. No.786/2007. The parties filed their respective written statements, pursuant to which issues were framed on 02.01.2016. Additional issues were framed on 23.08.2016. The examination-in-chief of the plaintiff as PW.1 was recorded only on 28.11.2018. An application seeking amendment of the pleadings was thereafter allowed on 31.07.2024. The present applications seek a second amendment to the pleadings.

7. The affidavit accompanying the applications seeks to explain that the amendment was necessitated on account of subsequent information which, according to the plaintiff, was not within his knowledge despite exercising due diligence. The alleged subsequent information relates to the Panchayat Palupatti dated 02.05.1948. On the basis of the said information, amendment is sought to incorporate a prayer to

declare the registered partition deed dated 20.07.2003 as null and void. A further prayer is sought to be incorporated to declare, on the same basis, the Will dated 13.05.1985 as a created document.

8. Learned counsel appearing for the respondents invited the attention of this Court to the unamended plaint in O.S. No.786/2007. In paragraph 14 of the unamended plaint, reference is made to the admission regarding the registered Will dated 13.05.1985. Further, in paragraph 19 of the unamended plaint, reference is made to the registered partition deed dated 30.07.2003. I.A. No.29 relates to compensation in respect of the land acquired by the BDA in Survey No.104, measuring 2 acres 33 guntas, in respect of which a right to share in the compensation is claimed.

9. In both the applications, amendment is sought after commencement of the trial. When the earlier application for amendment was filed, the suit was at the stage of recording the evidence of the plaintiff, and the said application came to be allowed. The suit has remained at the same stage even after seven years. Therefore, the proviso to Order VI Rule 17 of the CPC is attracted in the present case. In that view of the matter,

whether the applications for amendment satisfy the requirements of the proviso to Order VI Rule 17 of the CPC is a necessary issue that requires consideration by this Court.

10. Learned counsel appearing for the petitioners has relied upon the three judgments referred to supra, wherein it has been held that an amendment to the pleadings is required to be considered liberally at any stage, if such amendment has a bearing on the issues to be adjudicated in the suit. However, certain exceptions have been carved out. One such exception is that an amendment, if permitted, should not have the effect of withdrawing any admission made by the party seeking the amendment. It is further held that even where the amendment raises an issue of limitation, the same can be permitted, subject to the issue of limitation being decided by directing the Trial Court to frame an appropriate issue.

11. The interpretation of the proviso to Order VI Rule 17 of the CPC was not the subject matter for consideration in the aforesaid judgments. Whereas, in the judgment relied upon by the petitioners in the case of ***Basavaraj*** (supra), the Hon'ble Supreme Court examined the effect of the proviso to Order VI Rule 17 of the CPC when an amendment is sought. In

the present case, the requirements of the proviso have to be satisfied before the amendment can be permitted.

12. The Hon'ble Supreme Court, in ***Basavaraj*** (supra), has held that, though amendments to pleadings are ordinarily allowed to avoid multiplicity of litigation, the Court is required to consider whether the application for amendment is bona fide or mala fide and whether the amendment would cause such prejudice to the opposite party, which cannot be adequately compensated in terms of money. Another consideration is whether the amendment would fundamentally alter the nature and character of the suit or whether a fresh suit on the amended claim would be barred on the date of filing of the application. It is further held that any right accrued to the opposite party cannot be taken away on account of delay in filing the application. It has also been held that what cannot be done directly cannot be permitted to be done indirectly.

13. The suit is one for partition. If the facts of the present case are tested in the light of the aforesaid principles laid down by the Hon'ble Supreme Court, and the amendment sought were to include additional items of properties in the suit schedule, the same would necessarily require liberal

consideration in order to avoid multiplicity of proceedings and facilitate comprehensive adjudication of the dispute. However, the amendment sought in the present case travels in a different direction.

14. Insofar as the registered Will dated 13.05.1985 and the disputed partition deed dated 30.07.2003 are concerned, reference thereto can be found in the pre-amended plaint itself. On a plain reading of the plaint, no dispute was raised with regard to the registered Will or the partition deed. However, under the guise of amendment, the plaintiff now seeks to challenge the same by seeking a declaration that the partition deed dated 20.07.2003 is not binding on the plaintiff and also seeks alteration of the share claimed in the suit schedule properties.

15. Though it is stated that the amendment was necessitated on account of fresh facts coming to light pursuant to the Panchayat Palupatti dated 02.05.1948, no substantive or consequential relief is sought on the basis of the said Panchayat Palupatti dated 02.05.1948.

16. Insofar as the claim for compensation made in I.A. No.29 is concerned, the same relates to Survey No.104. It is

clearly stated that the acquisition of the said land was within the knowledge of the plaintiff as on the date of institution of the suit.

17. From the above, it is clear from the pleadings of the plaintiff itself that all the three issues relating to the registered Will dated 13.05.1985, the partition deed dated 20.07.2003, and the compensation payable by the BDA in respect of the acquisition of land in Survey No.104 were well within the knowledge of the plaintiff. In view of the proviso to Order VI Rule 17 of the CPC, an amendment can be permitted only if the party seeking the amendment establishes that, despite exercising due diligence, such pleading could not have been made at the time of filing the plaint.

18. As held by the Hon'ble Supreme Court in ***Basavaraj*** (supra), the burden is on the party seeking amendment to establish that, despite exercising due diligence, the amendment could not have been sought earlier. In the present case, facts which were within the knowledge of the plaintiff in the year 2004, when the suit was instituted, are sought to be introduced by way of amendment after a lapse of 18 years.

19. The successive amendments sought by the plaintiff, coupled with the fact that a suit instituted in the year 2004 is still at the stage of recording the plaintiff's evidence, indicate the manner in which the proceedings have progressed. The intention behind seeking the present amendment cannot be said to be bona fide; rather, the circumstances indicate that the amendment is sought with a mala fide intention to delay the proceedings, thereby affecting the rights of the parties in respect of their shares in the joint family properties.

20. Further, the amendment permitted by the Trial Court has the effect of seeking to resile from the admissions made with regard to the registered Will dated 13.05.1985 and the partition deed dated 20.07.2003. The Trial Court, without examining whether the requirements of the proviso to Order VI Rule 17 of the CPC were satisfied, mechanically permitted the amendment. In that view of the matter, the order passed by the Trial Court cannot be sustained.

21. Accordingly, the following:

O R D E R

(i) Writ petition is ***allowed***.

(ii) The order dated 01.06.2026 on I.A. Nos.28 and 29 on the applications filed under Order VI Rule 17 of CPC is set aside.

(iii) I.A. Nos.28 and 29 filed under Order VI Rule 17 of CPC stands rejected.

(iv) Considering that the suit of 2004 is pending for more than 22 years at the stage of plaintiff's evidence, which do not provide any justifiable reasons for such inordinate delay, this Court finds it appropriate to direct the trial Court for expeditious disposal of the suit, which shall be within one year from the next date of hearing.

Sd/-
(K. V. ARAVIND)
JUDGE

VBS