HC-KAR

NC: 2026:KHC:60225
WP No. 24626 of 2026

CNR: KAHC010542072026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 24626 OF 2026 (GM-CPC)

BETWEEN:

1. M/S VAKIL HOUSING DEVELOPMENT
   CORPORATION (P) LTD
   REG. UNDER COMPANIES ACT, 1956
   NO. 78, KORAMANGALA
   INDUSTRIAL AREA
   JYOTHI NIVAS COLLEGE ROAD,
   KORAMANGALA,
   BANGALORE 560095
   REPRESENTED ITS MANAGING DIRECTOR
   MOHSIN ALI VAKIL

…PETITIONER

(BY SRI A. RAVISHANKAR, ADVOCATE FOR
SRI BHARATH K., ADVOCATE)

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

AND:

1. SMT. MALATHI
   DAUGHTER OF LATE VENKATASWAMY
   AGED ABOUT 42 YEARS

2. SMT. VASANTHA
   DAUGHTER OF LATE VENKATASWAMY
   AGED ABOUT 39 YEARS

3. SMT. MUNIRATHNAMMA
   DAUGHTER OF LATE VENKATASWAMY
   AGED ABOUT 37 YEARS

4. SMT. ASHA
DAUGHTER OF LATE VENKATASWAMY
AGED ABOUT 35 YEARS

5. SRI.KANTHARAJU
SON OF LATE VENKATASWAMY
AGED ABOUT 33 YEARS

RESPONDENET Nos.1 TO 5 ARE
R/AT JAIBHEEM NAGAR
A.K. COLONY, DODDAKERE BEGILU
ANEKAL TALUK,
BENGALURU URBAN DISTRICT-562107

…RESPONDENTS

(BY SRI VINOD N., ADVOCATE FOR R1,R2, R4 AND R5;
SMT. SYEDA SABA, ADVOCATE FOR C/R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 14.07.2026 PASSED ON 1.A.NO.3 IN O.S.NO.459/2021 PENDING ON THE FILE OF PRINCIPAL CIVIL JUDGE AND JMFC, ANEKAL AS PER ANNEXURE-A, AND CONSEQUENTLY ALLOW I.A. NO.3 FILED UNDER ORDER VI RULE 17 OF CODE OF CIVIL PROCEDURE, IN THE INTEREST OF JUSTICE AND EQUITY.

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

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

ORAL ORDER

The present petition is filed impugning the order dated 14.07.2026 passed in O.S. No. 459/2021, whereby I.A. No. III, filed by the plaintiff under Order VI Rule 17 of the CPC, came to be rejected.

2. Learned counsel appearing for the petitioner/plaintiff submits that the suit was instituted seeking the relief of injunction. Upon filing of the written statement, the defendant disputed the plaintiff's title to the suit schedule property. In view of the same, an application for amendment was filed seeking to incorporate a prayer for declaratory relief.

2.1 It is submitted that the amendment application was filed prior to the commencement of trial and ought to be considered liberally, as the proposed amendment is necessary for the complete and comprehensive adjudication of the suit. It is further contended that, when a separate suit seeking the same relief is maintainable, the amendment ought to be permitted to avoid multiplicity of proceedings.

2.2 Learned counsel further submits that the Trial Court has not properly appreciated the judgment of the Hon'ble Supreme Court in ***Life Insurance Corporation of India v. Sanjeev Builders Private Limited and another***, ***Civil Appeal No 5909/2022*** . It is contended that, in view of the law laid down in the said judgment, where the proposed amendment relates only to the relief sought in the plaint and is founded on facts already pleaded therein, the amendment ought to be allowed.

4. *Per contra*, learned counsel appearing for the caveator/respondent No. 3 submits that the suit was instituted in the year 2021 seeking injunctive relief, and the written statement was filed on 25.02.2022. It is contended that no steps were taken thereafter and that the amendment application was filed only on 05.01.2026 with the intention of delaying the proceedings. Accordingly, it is submitted that the belated application ought not to be entertained.

4.1 Learned counsel further submits that the dilatory tactics adopted by the petitioner have been duly recorded by the Trial Court in the impugned order. It is also contended that

permitting the proposed amendment would change the nature of the suit and give rise to the issue of limitation.

5. Considered the submissions made by the learned counsel for the parties and perused the impugned order.

6. The suit is one for permanent injunction. The affidavit accompanying the amendment application states that, in view of the denial of the plaintiff's title, the proposed amendment is necessary to seek declaratory relief.

7. It is a settled principle of law that, where the plaintiff's title is disputed in a suit for injunction, the plaintiff may be required to seek a declaration of title. It is also well settled that an amendment necessary for the complete adjudication of the suit ought to be permitted liberally, subject to the applicable legal requirements.

8. In the present case, the trial has not commenced and, therefore, the proviso to Order VI Rule 17 of the CPC is not attracted. Further, there are no allegations of fraud or misrepresentation in seeking the proposed amendment.

9. If the amendment is permitted, the question of limitation would arise for consideration. This aspect has been dealt with by the Hon'ble Supreme Court in ***Life Insurance Corporation of India v. Sanjeev Builders Private Limited and another*** (supra), wherein it has been held that, where the question of delay is arguable, the amendment may be permitted and the issue of limitation framed separately for adjudication.

10. An identical view has been taken by the Hon'ble Supreme Court in ***Haramani Sahoo and others v. Lalita Nayak and others***, ***Civil Appeal No. 13681/2026***, dated ***12.10.2026***, wherein it is held that the proposed enlargement of factual and legal questions requiring adjudication cannot, by itself, be equated with a fundamental alteration in the nature and character of the suit. It is further held that, unless the proposed claim is expressly barred by law, the amendment cannot be denied. Where the question of limitation is arguable and depends upon disputed facts, including the date or manner in which the plaintiff acquired knowledge of the relevant document or transaction, the amendment need not necessarily be rejected at the threshold.

11. The finding of the Trial Court, which merely refers to paragraph 70(iii)(ii)(c) of the judgment in ***Life Insurance Corporation of India*** (supra), is not sustainable. Paragraph 70(ix) of the very same judgment provides an answer to the controversy arising in the present petition.

12. In view of the foregoing discussion, this Court is inclined to entertain the petition. However, the possibility of prejudice or hardship to the defendants, having regard to the plaintiff's lack of cooperation in securing the early disposal of the suit, cannot be disregarded. The proposed amendment would also necessitate additional pleadings, thereby causing inconvenience and hardship to the respondents. Such prejudice and hardship require to be adequately compensated.

13. In view of the above, the following :

O R D E R

I. The writ petition is ***allowed***.

II. The order dated 14.07.2026 passed in O.S. No. 459/2021 is ***set aside***.

III. I.A. No. III filed by the plaintiff under Order VI Rule 17 of the CPC is ***allowed***.

IV. If the issue of limitation is raised, the Trial Court is directed to frame an appropriate issue and adjudicate the same in accordance with law.

V. The proposed amendment is permitted, subject to payment of costs of Rs.15,000/- to the defendants. The costs shall be paid before carrying out the amendment in the plaint, having regard to the plaintiff's conduct in delaying the proceedings, as reflected in the order sheet.

VI. The Trial Court is directed to expedite the proceedings and conclude the suit within two years from the next date of hearing.

Sd/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 9