HC-KAR

NC: 2026:KHC:60369
WP No. 29809 of 2026

CNR: KAHC010653412026

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. 29809 OF 2026 (GM-CPC)

BETWEEN:

1. MR. B S RAMALINGEGOWDA
AGED ABOUT 43 YEARS,
S/O LATE B.L. SIDDEGOWDA,
R/AT DODDANGADI BEEDI,
NEAR KSRTC BUS STAND,
BANNUR TOWN,
T.NARASIPUR TALUK-571101

...PETITIONER

(BY SRI. MOHANA CHANDRA P., ADVOCATE)

AND:

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

1. SMT. LAKSHMAMMA,
AGED ABOUT 57 YEARS,
W/O B.C. KRISHNA
D/O LATE B.L. SIDDEGOWDA,
R/AT THYAGARAJAMOHALLA,
BANNUR TOWN,
T.NARASIPURA TALUK-571101

2. SMT. REVANAMMA
SINCE DEAD
SMT. B.S. NAGARATHNAMMA
AGED ABOUT 70 YEARS,
W/O LATE SHIVASHANKAREGOWDA,
D/O LATE B.L. SIDDEGOWDA,
R/AT RANGASAMUDRA VILLAGE,

KASABA HOBLI,
T.NARASIPURA TALUK -571101

3. SMT. B.S. CHANDRIKA,
AGED ABOUT 65 YEARS,
W/O B.C. THIMMEGOWDA,
D/O LATE B L. SIDDEGOWDA,
R/AT THYAGARAJAMOHALLA,
BANNUR TOWN,
T.NARASIPURA TALUK -571101

4. SMT. B.S. SAVITHRI
AGED ABOUT 50 YEARS,
W/O JAYARAMU
D/O LATE B.L. SIDDEGOWDA,
R/AT DODDANAGADI BEEDI,
NEAR K.SRTC BUS STAND, BANNUR TOWN,
T.NARASIPURA TALUK-571101

5. MR. NAGARAJU,
AGED ABOUT 44 YEARS,
S/O KUNDAPPANA RAJEGOWDA,
R/AT HARAKERIMOHALLA BANNUR TOWN,
T.NARASIPURA TALUK-571101

6. MR. BORALINGEGOWDA @ SWAMY
AGED ABOUT 50 YEARS,
S/O LATE GOOLEGOWDA,
R/AT MADEGOWDANAHUNDI VILLAGE
KASABA HOBLI, T.NARASIPURA TALUK -571101

7. SMT. LAKSHMAMMA,
AGED ABOUT 69 YEARS,
W/O CHANNAPPA
R/AT HORAKERIMOHALLA,
BANNUR TOWN, T.NARASIPURA TALUK -571101

8. MR. MAHADEVU,
AGED ABOUT 46 YEARS,
S/O KUNDAPPANA RAJEGOWDA,

R/AT HORAKERIMOHALLA, BANNUR TOWN,
T.NARASIPURA TALUK-571101

9. MR. SURESHA,
AGED ABOUT 55 YEARS,
S/O VEERABHADRAPPA
R/AT HORAKERIMOHALLA, BANNUR TOWN,
T.NARASIPURA TALUK-571101

10. MR. KRISHNEGOWDA,
AGED ABOUT 52 YEARS,
S/O DASEGOWDA,
R/AT THYAGARAJAMOHALLA
BANNUR TOWN, T.NARASIPURA TALUK--571101

11. MR. B.S. SURENDRA
AGED ABOUT 54 YEARS,
S/O GATTIGOWDARA SIDDEGOWDA
R/AT HORAKERIMOHALLA,
SRP ROAD BAJU, BANNUR TOWN,
T.NARASIPURA TALUK-571101

12. SMT. SAKAMMA
AGED ABOUT 49 YEARS,
W/O NAGEGOWDA,
R/AT YACHENAHALLI VILLAGE.
BANNUR HOBLI, T.NARASIPURA TALUK--571101

13. MR. R. NAGARAJU,
AGED ABOUT 64 YEARS,
S/O HURULL NINGANNA DASEGOWDANA
RAMEGOWDA
R/AT HORAKERIMOHALLA, BANNUR TOWN,
T.NARASIPURA TALUK -571101

14. MR. B.S. REVANNA,
AGED ABOUT 49 YEARS,
S/O M. SIDDEGOWDA,
R/AT DANDINA ONI,
THYAGARAJAMOHALLA,

BANNUR TOWN,
T.NARASIPURA TALUK-571101

15. SMT. GOWRAMMA
AGED ABOUT 64 YEARS,
W/O RAMESH
R/AT HORAKERIMOHALLA
BANNUR TOWN, T.NARASIPURA TALUK -571101

16. MR. NAGARAJU,
AGED ABOUT 66 YEARS,
S/O THORAHALLI PUTTALINGAPPA R/AT
HORAKERIMOHALLA, BANNUR TOWN,
T.NARASIPURA TALUK-571101

17. MR. SIDDEGOWDA,
AGED ABOUT 47 YEARS,
S/O MOTHERGOWDANA SIDDEGOWDA
R/AT HORAKERIMOHALLA BANNUR TOWN,
T. NARASIPURA TALUK -571101

18. GOVINDAIAH
SINCE DEAD BY HIS LRs

SMT. NAGARATHNAMMA
AGED ABOUT 64 YEARS,
W/O LATE GOVINDAIAH,

19. MR. B.G. PRADEEP KUMAR,
AGED ABOUT 47 YEARS,
S/O LATE GOVINDAIAH

BOTH ARE R/AT GANAPARAMESHWARINAGARA,
HOSAKERI, BANNUR TOWN,
T.NARASIPURA TALUK -571101

20. MR. SMT. B.S. RENUKA
AGED ABOUT 51 YEARS,
W/O SIDDEGOWDA,
R/AT DANDINA ONI,

BANNUR TOWN,
T.NARASIPURA TALUK-571101

21. MR. ELIAS,
AGED ABOUT 55 YEARS
S/O MOHAMMED KHASIM,
R/AT SUGAR FACTORY, MAKANAHALLI,
BANNUR TOWN,
T.NARASIPURA TALUK-571101

22. MR.RAVI,
AGED 45 YEARS,
S/O HURULI NINGANNA MUDDEGOWDA,
R/AT HORAKERIMOHALLA,
BANNUR TOWN,
T.NARASIPURA TALUK-571101.

…RESPONDENTS

(BY SRI. P NATARAJU, ADVOCATE;
VIDE ORDER DATED 09.10.2026 NOTICE TO
R2 TO R22 IS DISPENSED WITH)

THIS W.P. IS FILED IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER DATED 10.09.2026 PASSED BY THE COURT OF SENIOR CIVIL JUDGE T NARASIPURA IN O.S. NO. 77/2022 DISMISSING I.A. NO.9 FILED UNDER ORDER VI RULE 17 R/W SECTION 151 OF CPC VIDE ANNEXURE-G AND CONSEQUENTLY ALLOW I.A. NO.9 FILED UNDER ORDER VI RULE 17 R/W SECTION 151 OF CPC VIDE ANNEXURE-E.

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 challenging the order dated 10.09.2026 passed on I.A. No.9, whereby the application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908, seeking amendment of the written statement, came to be rejected.

2. Learned counsel for the petitioner submits that the amendment sought to the written statement is only for the purpose of correcting typographical errors. It is further submitted that even where the proposed amendment seeks to introduce a new defence or substitute or alter a defence already taken, including one inconsistent with the existing pleadings, the same is required to be considered liberally.

2.1 It is contended that the proposed amendment is necessary for the complete and effective adjudication of the suit. It is further submitted that any prejudice that may be caused to the opposite party can be adequately compensated.

3. *Per contra*, learned counsel for the respondents submits that if the proposed amendment is permitted, it would

have the effect of withdrawing an express admission made in the written statement. In the circumstances, it is contended that the Trial Court was justified in rejecting the application.

4. Considered the submissions made by learned counsel for the parties and perused the documents.

5. The suit is instituted for partition and separate possession. In the written statement filed on 05.01.2023, the defendants have specifically pleaded that the plaint schedule properties are ancestral joint family properties. Based on the pleadings, issues have been framed and the suit has reached the stage of the plaintiff's evidence.

6. The application for amendment is filed purportedly to correct certain typographical errors. However, on examination of the nature of the proposed amendments, it is evident that the petitioner seeks to introduce a plea that the suit schedule properties are not ancestral joint family properties. Though the proposed amendment is presented as one for grammatical corrections, in substance, it would alter the entire nature of the defence.

7. No doubt, as held by the Hon'ble Supreme Court in ***Usha Balashaheb Swami v. Kiran Appaso Swami, [(2007) 5 SCC 602]***, a defendant may be permitted to introduce a new ground of defence, substitute or alter an existing defence, or even take an inconsistent plea in the written statement. The principles governing amendments to the written statement are, therefore, distinct from those applicable to amendments of the plaint, particularly where the amendment seeks to introduce a new cause of action. However, the permissibility of such an amendment is subject to the requirements of the proviso to Order VI Rule 17 of the CPC.

8. It is not in dispute that the application for amendment was filed when the suit had reached the stage of cross-examination of PW.1. The Hon'ble Supreme Court, in ***Basavaraj v. Indira and Others, [(2024) 3 SCC 705]***, has categorically held that the proviso to Order VI Rule 17 of the CPC mandates that no application for amendment shall be allowed after commencement of the trial unless the Court arrives at a conclusion that, despite the exercise of due diligence, the party could not have raised the matter before

commencement of the trial. It is further held that the burden lies on the party seeking amendment, after commencement of the trial, to establish that despite the exercise of due diligence, the amendment could not have been sought earlier. The power to amend pleadings is not a matter of right.

9. The Hon'ble Supreme Court, in a catena of decisions, has reiterated that amendments to pleadings are ordinarily to be permitted liberally where they are necessary for the complete and comprehensive adjudication of the dispute. The said principle has also been reiterated in ***Life Insurance Corporation of India v. Sanjeev Builders Private Limited & Anr. (Civil Appeal No.5909 of 2022)***. However, the exercise of such power, particularly after commencement of the trial, is subject to compliance with the statutory requirements stipulated in the proviso to Order VI Rule 17 of the CPC.

10. A perusal of the application for amendment and the affidavit filed in support thereof would indicate that there is no averment explaining the exercise of due diligence or demonstrating why the proposed amendment could not have

been sought before commencement of the trial. Thus, the statutory requirement under the proviso to Order VI Rule 17 of the CPC remains unsatisfied, rendering the application liable to be rejected.

11. Though the reasons assigned by the Trial Court may not, by themselves, fully justify the conclusion arrived at, the ultimate result does not warrant interference for the reasons recorded hereinabove. No ground is made out to entertain this petition.

Accordingly, the petition stands ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

VBS
List No.: 1 Sl No.: 16