IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO.132 OF 2024 (GM-CPC)

BETWEEN:

SRI. MUNIRAJU
SON OF LATE CHIKKANARASIMHAIAH,
AGED ABOUT 58 YEARS,
R/AT CHOKKAHALLI VILLAGE,
NANDI HOBLI,
CHICKBALLAPURA TALUK,
CHICKBALLAPURA DISTRICT - 562 103.

...PETITIONER

(BY SRI. MURALIDHARA P, ADVOCATE)

AND:

1. SRI. V. VENKATESH
SON OF VENKATARAMAIAH,
AGED ABOUT 56 YEARS,
RESIDENT OF CHOKKAHALLI VILLAGE,
NANDI HOBLI,
CHICKBALLAPURA TALUK,
CHICKBALLAPURA DISTRICT - 562 103.

SRI. T. S. ANANTHAPADMANABHARAO
SON OF LATE T. R. SUBBARAO
@ DODDA SUBBANNACHAR,
AGED ABOUT 94 YEARS,
R/AT NO.132/2, KANDAVARPET,
CHICKBALLAPURA CITY,
CHICKBALLAPURA DIST - 562 101.
(SINCE DECEASED WITHOUT ANY ISSUES AND
LEGAL HEIRS,

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA

HENCE SUIT ABATED AGAINST HIM)

…RESPONDENTS

(BY SMT. K.RADHIKA, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO GRANT AN ORDER, WRIT OR DIRECTION IN THE NATURE OF CERTIORARI OR ANY OTHER WRIT OR DIRECTIONS QUASHING THE IMPUGNED ORDERS DATED 25/10/2023 PASSED BY THE HON'BLE 1ST ADDITIONAL CIVIL JUDGE & JMFC AT CHICKABALLAPURA ON I.A FILED UNDER ORDER VII RULE 10 READ WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908 IN O.S NO.78/2017, AS CONTAINED IN ANNEXURE-E, TO MEET THE ENDS OF JUSTICE.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN '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 25.10.2023 passed by the I Additional Civil Judge & JMFC, Chikkaballapura on an I.A. in O.S.No.78/2017 (hereinafter referred to as the 'Impugned Order'). By the Impugned Order, an application filed under Order VII Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC'), has been dismissed.

2. This Court, by its order dated 03.01.2024, had directed stay of all further proceedings in O.S.No.78/2017. The said stay order has continued till today.

3. Learned counsel for the petitioner submits that the challenge in the present petition is on a limited ground. He submits that the respondent had in the year 2022, filed documents setting out the guidance value of immovable properties including the suit schedule property. This document was marked as Exhibit D-16. Learned counsel further submits that as per the guidance value, the learned Civil Judge would have no jurisdiction but the jurisdiction would be of the learned Senior Civil Judge.

4. The learned counsel has also filed a memo placing the guidance value on record to submit that the petitioner/plaintiff was seeking for return of plaint to file it in the appropriate court. However, the application was not examined in view of the delay in its filing.

5. Learned counsel for the respondent/defendant No.2 has placed documents on record in its defence to state that the suit is incorrectly valued and in this behalf, an issue has also been framed which is Issue No.4 by the Court on 30.05.2019.

6. This Court has examined the Impugned Order as well as the documents which have been filed on record. The Impugned Order only premises itself on the fact that this application has been filed at a belated stage. The Impugned Order does not reflect any findings whatsoever on the merits of the application.

7. In any event, Order VII Rule 10 of the CPC specifically states that at any stage of the suit, a plaint can be returned to be filed in a Court where the suit should have been instituted. Order VII Rule 10 of the CPC is extracted below:

"ORDER VII

PLAINT

xxx *xxx* *xxx*

10. Return of plaint.

> ***(1) Subject to the provisions of rule 10A, the plaint shall at any state of the suit be returned to be presented to the Court in which the suit should have been instituted.***
>
> ***Explanation-*** *For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.*
>
> ***(2) Procedure on returning plaint-*** *On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it."*

8. It is also settled position of law that where an order is passed without giving any findings, such an order cannot be sustained. It is a settled position of law that every order must contain findings.

9. The Supreme Court in ***Haramani Sahoo v. Lalita Nayak***[1], while considering the scope of amendment of pleadings under Order VI Rule 17 of the CPC at the post-trial stage has held that an amendment sought after commencement of trial may be permitted where the applicant furnishes a sufficient explanation demonstrating that, despite due diligence, the matter could not have been

[1] 2026 SCC OnLine SC 2123

raised earlier. In addition, it has been held that if the proposed amendment is necessary for effective adjudication of the real controversy without fundamentally altering the nature and character of the suit, the amendment ought to be allowed. The Supreme Court further held that where the proposed amendment bears a direct nexus with the existing controversy and the prejudice occasioned to the opposite party can be addressed by permitting additional pleadings and, where appropriate, imposing costs, the amendment may be allowed, subject to satisfaction of the statutory requirement of due diligence. The relevant extract is set out below:

> *"10.* ***A plain reading of the aforesaid provision makes it clear that Order VI Rule 17 of the CPC confers a discretionary power upon the Court to permit amendments which are necessary for determining the real questions in controversy between the parties. However, once the trial has commenced, the exercise of such power is subject to the additional requirement that the Court must be satisfied that despite due diligence, the party could not have raised the matter before the commencement of trial. The object of the provision is to enable the Court to effectively and completely adjudicate upon the dispute between the parties, while at the same time, ensuring that a party does not introduce at a belated stage, matters which could, with due diligence, have been raised earlier.***

xxx *xxx* *xxx*

11.1. In Rajesh Kumar Aggarwal & others v. K.K. Modi and others, this Court held that the "real controversy test" is the basic and cardinal test governing an application under Order VI Rule 17. The Court is required to determine whether the proposed amendment is necessary for deciding the real question in controversy between the parties, while ensuring that such amendment does not cause injustice or prejudice to the opposite party.

11.2. Similarly, in Abdul Rahman and another v. Mohd. Ruldu and others (supra), this Court reiterated that amendments necessary for determining the real (2006) 4 SCC 385 questions in controversy ought ordinarily to be permitted, provided they do not alter the basic nature of the suit. A change in the relief sought does not, by itself, amount to a change in the nature of the suit.

xxx *xxx* *xxx*

12. In the present case, there is no dispute that the application for amendment was filed after commencement of the trial and therefore, the proviso to Order VI Rule 17 of the CPC is attracted. The fact that the amendment was sought at a belated stage is, by itself, not determinative. The principal question is whether, the appellants have shown that despite due diligence, the matters now sought to be introduced could not have been raised before the commencement of the trial. The further question is whether the proposed amendment would fundamentally alter the nature and character of the suit.

xxx *xxx* *xxx*

13.1. The significance of these circumstances cannot be overlooked. The proposed amendment is not founded upon a transaction or an event wholly unconnected with the subject matter of the suit, but upon a subsequent discovery of a decree which, according to the original plaintiff, has a bearing upon the title to a portion of the very property in

dispute*. The record indicating that certified copies of the plaint and final decree were obtained on 22.06.2020 is a relevant circumstance in assessing the plea of due diligence.* ***At this stage, it is not necessary for the Court to finally determine whether the plaintiff's assertion regarding the date of knowledge is ultimately correct. What is required is to examine whether sufficient explanation has been furnished for not raising the matter before commencement of the trial.***

13.2. Having regard to the aforesaid circumstances, we are of the view that the explanation furnished by the appellants cannot, at this stage, be characterised as a mere omission, inadvertence or negligence. The subsequent discovery of the compromise proceedings, coupled with the assertion that the original plaintiff was not a party to those proceedings and that the source of title of the vendors was not disclosed in the written statement, ***provides a sufficient basis for accepting the plea of due diligence for the purposes of the proviso to Order VI Rule 17 of the CPC. The statutory requirement is therefore satisfied.***

xxx xxx xxx

14.1. ***The real inquiry is whether the amendment introduces a distinct and independent controversy having no connection with the original cause of action, or whether it merely brings on record additional facts and consequential reliefs having a direct nexus with the existing controversy.*** *On the facts of the present case, the proposed amendment falls within the latter category.* ***The subject matter of the proposed amendment and the original suit substantially overlap, and the adjudication of the proposed issue would have a direct bearing upon the title and possession claimed in respect of the suit property.***

xxx xxx xxx

19. The objection as to prejudice also does not warrant rejection of the amendment. The prejudice relied upon by the respondents principally arises

from the additional factual and legal issues which they would now be required to meet. Such prejudice can adequately be addressed by permitting the respondents to file an additional written statement and where necessary, by imposing appropriate costs. The mere fact that an amendment requires the opposite party to meet additional pleadings or issues does not, by itself, warrant refusal of the amendment where the amendment is necessary for a complete and effective adjudication of the controversy."

[Emphasis Supplied]

10. In view of the settled legal position, the Impugned Order is set aside. The learned Trial Court shall examine the applications filed and the documents on record and pass a reasoned speaking order. The petition is ***disposed of*** in the aforegoing terms. All pending applications stand closed.

11. Given the pendency of the proceedings, both the parties submit that they will not take any unnecessary adjournments before the Trial Court. The parties are bound down by their submissions.

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

(TARA VITASTA GANJU)
JUDGE

KS
List No.: 1 Sl No.: 36