HC-KAR

NC: 2026:KHC:61873
WP No. 31221 of 2026

CNR: KAHC010683732026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 31221 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. K. VENKATESWARULU,
   S/O LATE SESHACHARI,
   HINDU,
   AGED ABOUT 80 YEARS,

2. SMT. K. LALITHA
   W/O K VENKATESWARULU
   HINDU,
   AGED ABOUT 76 YEARS,

   BOTH ARE RESIDING AT NO.6,
   1ST MAIN, 8TH CROSS,
   VASANT NAGAR, M.T.STREET,
   BENGALURU -560001.

...PETITIONERS

(BY SRI DATTATRAYA MADHAVA RAO JOSHI, ADVOCATE)

Digitally signed by VIJAYA P
Location: High Court of Karnataka

AND:

1. SRI. PRADEEP KUMAR MANDAL M,
   S/O. MAHESH MANDAL,
   AGED ABOUT 37 YEARS,

2. MAHESH MANDAL,
   S/O, LATE DEEPAN MANDAL
   AGED ABOUT 66 YEARS,

BOTH ARE RESIDING AT
NO.15/1 1/1, 8TH 'B 'CROSS,
VASANTHANAGAR,
BANGALORE- 560052.

3. SRI. RANJEETH MANDAL,
S/O. MAHESH MANDAL,
AGED ABOUT MAJOR,
RESIDING AT NO.15/1,
1/1, 8TH 'B 'CROSS,
VASANTHANAGAR,
BANGALORE- 560052.

…RESPONDENTS

(VIDE ORDER DATED 05.11.2026
NOTICE TO RESPONDENT IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING ANNEXURE F THE ORDER DATED 4.8.2026 IN ORIGINAL SUIT NO.6445/2023 PASSED BY THE HON'BLE XI ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CITY IN THE INTEREST OF JUSTICE.

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

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

ORAL ORDER

1. The present petition is filed impugning the order dated 04.08.2026 passed in O.S. No.6445/2023, whereby the application filed under Order VI Rule 17 of the CPC came to be rejected.

2. Learned counsel for the petitioners submits that the suit is one for injunction. However, in view of the subsequent developments, namely, demolition and encroachment, the petitioners sought amendment of the plaint to incorporate comprehensive reliefs so as to avoid multiplicity of proceedings. It is submitted that the application was filed prior to the commencement of trial. Learned counsel further submits that an amendment necessary for effective adjudication of the suit and to avoid multiplicity of proceedings ought to be considered liberally, particularly when the proviso to Order VI Rule 17 of the CPC is not attracted. It is contended that the Trial Court, without assigning any reasons, proceeded to reject the application by invoking the proviso, though the same has no application to the facts of the present case.

3. Considered the submissions made by the learned counsel for the petitioners and perused the impugned order.

4. In view of the order that this Court proposes to pass, issuance of notice to the respondents is dispensed with.

5. The pleadings in the affidavit accompanying the application for amendment would clearly indicate that the amendment sought to be incorporated relates to subsequent developments arising out of certain acts of the defendants, namely, demolition and encroachment. It is also pleaded that the proposed amendment is necessary for seeking comprehensive reliefs and, if permitted, would avoid multiplicity of proceedings.

6. It is evident from the order sheet that the trial has not commenced in the suit and, therefore, the proviso to Order VI Rule 17 of the CPC is not attracted. When the proviso is not attracted, it is a settled position of law that an amendment, if necessary for comprehensive adjudication of the suit and for avoiding multiplicity of proceedings, ought to be considered liberally. It is also a settled position of law that where an independent suit seeking the relief proposed by way of amendment is maintainable, such amendment may be permitted to avoid multiplicity of proceedings.

7. The Trial Court, on a misconception, proceeded to reject the application by invoking the proviso, without even recording the stage of the suit as on the date of filing of the application. For the reasons stated above, the order impugned cannot be sustained. As the reasons assigned by the Trial Court for rejecting the application are unsustainable, this Court is inclined to interfere with the impugned order.

8. Accordingly, the following:

ORDER

i) Writ Petition is ***partly allowed***.

ii) Order dated 04.08.2026 passed in O.S.No.6445/2023 is ***set aside***.

iii) I.A.No.4 filed under Order VI Rule 17 of CPC is hereby restored to the file of the Trial Court for fresh adjudication, in the light of the above observations.

iv) All contentions of both the parties are kept open.

SD/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 15