HC-KAR

NC: 2026:KHC:59923
WP No. 33013 of 2026

CNR: KAHC010716752026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 33013 OF 2026 (GM-CPC)

BETWEEN:

1. SMT. MUBASHEER FERZANA
   D/O LATE G. ISMAIL KHAN,
   W/O ABDUAL RAHMAN,
   AGED ABOUT 69 YEARS

2. SRI. KALIMULLA KHAN,
   S/O LATE G. ISMAIL KHAN,
   AGED ABOUT 65 YEARS

3. SRI. ALIMULLA KHAN. I.M,
   S/O LATE G. ISMAIL KHAN,
   AGED ABOUT 56 YEARS

   ALL R/A NO.30, 2ND CROSS,
   3RD MAIN, ASHWATH NAGAR,
   RMV II STAGE, BENGALURU-560094

...PETITIONERS

(BY SRI SKANDA KUMAR, ADVOCATE FOR
SRI M.D.RAGHUNATH, ADVOCATE)

AND:

1. SMT MUNEER FERZANA
   D/O LATE G. ISMAIL KHAN,
   W/O KAVIRAJ BONDAL,
   AGED ABOUT 66 YEARS,

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

R/A B-6, ABHISHEK RESIDENCY,
UNIVERSITY ROAD, ANAND-388421
GUJARATH, INDIA

…RESPONDENT

(BY SRI V. RAVI PRAKASH, ADVOCATE FOR C/R)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER AT ANNEXURE-E DATED 18.08.2026 IN OS NO. 8349/2022 ISSUED BY THE HON'BLE XIII ADDL. CITY CIVIL AND SESSIONS JUDGE, AT MAYOHALL, BENGALURU (CCH 22) AND REJECT THE APPLICATION FILED BY THE RESPONDENT.

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 impugns the order dated 18.08.2026 passed in O.S. No. 8349/2022, whereby the Trial Court allowed I.A. No. 3 filed under Order VI Rule 17 of the Code of Civil Procedure, permitting amendment of the plaint.

2. Learned counsel for the petitioners submits that the declaratory relief sought to be introduced by way of

amendment not only alters the nature of the suit but is also ex facie barred by limitation. It is submitted that although an amendment may be permissible before the commencement of trial, such permission is subject to the protection of rights vested in the opposite party by operation of law.

3. It is further submitted that the partition suit is founded on the alleged release deed dated 07.11.2018, which also forms the basis of the cause of action. The plaintiff had knowledge of the release deed as on 04.09.2021. However, the application seeking amendment was filed on 18.09.2024, beyond the period of three years prescribed for challenging the said document. It is therefore contended that an amendment which is otherwise barred by law cannot be permitted.

4. In support of the aforesaid submissions, learned counsel places reliance on 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***. dated ***01.09.2022***.

5. *Per contra*, learned counsel appearing for the respondent submits that an amendment may be permitted at any stage of the suit, provided it is relevant for the adjudication of the dispute. It is further submitted that where the question of limitation is arguable and depends upon disputed questions of fact, the amendment ought to be permitted, leaving the issue to be adjudicated by the Trial Court, subject to appropriate safeguards.

6. In support of the aforesaid submissions, learned counsel places reliance on the judgment of the Hon'ble Supreme Court in ***Haramani Sahoo and Others v. Lalita Nayak and Others, Civil Appeal No. 13681/2026***, dated ***12.10.2026***.

7. Considered the submissions made by the learned counsel for the parties and perused the material on record.

8. The suit is one for partition. By way of the proposed amendment, the plaintiff seeks a declaration that the release deed dated 07.11.2018, executed by the plaintiff and defendant Nos. 1 and 2 in favour of defendant No. 3, is not binding on the

plaintiff and that the said deed was obtained by defendant No. 3 by making false assurances and misleading the plaintiff.

9. The nature of the declaratory relief sought is undoubtedly subject to limitation. It is not in dispute that the applicable period of limitation is three years. Paragraph No. 23 of the plaint, which deals with the cause of action for instituting the suit, expressly records that the plaintiff had knowledge of the release deed on 04.09.2021. The suit was instituted on 30.12.2022, whereas the application seeking amendment was filed on 18.09.2024. If the period of limitation is computed from the date of knowledge, i.e., 04.09.2021, the application seeking to introduce the declaratory relief is clearly barred by limitation.

10. The Hon'ble Supreme Court, in ***Life Insurance Corporation of India*** (supra), at paragraph No. 70(iii)(ii)(c), has held that an amendment may be permitted if it does not introduce a time-barred claim that would deprive the opposite party of a valuable accrued right. A similar principle has been laid down in ***Haramani Sahoo*** (supra), at paragraphs 15 and 16. It has also been held that an amendment may be

considered at any stage of the suit without examining the merits or maintainability of the relief sought to be introduced, unless the proposed claim is ex facie barred by law. At the same time, where the question of limitation is itself arguable and depends upon disputed questions of fact, 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. In the present case, there is no dispute regarding the plaintiff's knowledge of the document sought to be declared as not binding. In that view, the proposed amendment is ex facie barred by law. Having regard to the principles laid down in the aforesaid judgments, the amendment permitted by the Trial Court cannot be sustained. This Court is, therefore, inclined to entertain the petition.

12. Accordingly, the following:

O R D E R

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

II. The order dated 18.08.2026 passed in O.S. No. 8349/2022 is hereby ***set aside***.

III. I.A. No. 3 filed under Order VI Rule 17 of the Code of Civil Procedure is ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 25