HC-KAR

NC: 2026:KHC:65592
WP No. 34621 of 2026

CNR: KAHC010761102026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 34621 OF 2026 (GM-CPC)

BETWEEN:

1. S T KEMPARAJU,
   S/O. OF LATE THIMMEGOWDA,
   AGED ABOUT 60 YEARS,
   R/AT SIDDIAHNA KOPPALU,
   KOTHATHI HOBLI,
   MANDYA TALUK -571401.

...PETITIONER

(BY SRI. JAGADEESH D C.,ADVOCATE)

AND:

1. S. N. HANUMANTHA,
   S/O LATE NINGAIAH,
   AGED ABOUT 63 YEARS,
   R/AT SIDDIAHNA KOPPALU,
   KOTHATHI HOBLI,
   MANDYA TALUK -571401

2. S.S.DEVARAJU,
   S/O.LATE G SIDDAIAH,
   AGED ABOUT 60 YEARS,
   R/AT SIDDIAHNA KOPPALU,
   KOTHATHI HOBLI,
   MANDYA TALUK -571401.

3. S.S.UMESH
   S/O.LATE G SIDDAIAH,
   AGED ABOUT 54 YEARS,

Digitally signed by VIJAYA P
Location: High Court of Karnataka

R/AT SIDDIAHNA KOPPALU,
KOTHATHI HOBLI,
MANDYA TALUK - 571401

…RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER DATED 28.09.2026 PASSED ON IA NO.IV IN O. S. 113/2020 PASSED BY THE 1ST ADDL. CIVIL JUDGE AND JMFC MANDYA VIDE ANNX-E AND CONSEQUENTLY DISMISSED THE IA NO.IV FILED BY THE PLAINTIFF IN O S NO.113/2020 ON THE FILE OF THE 1ST ADDL. CIVIL JUDGE AND JMFC MANDYA VIDE ANNX-C.

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 petitioner has called in question the order dated 28.09.2026 passed on I.A. No.4 in O.S. No.113/2020, pending on the file of the I Additional Civil Judge and JMFC, Mandya, whereby the application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908, seeking amendment of the plaint, came to be allowed.

2. Learned counsel appearing for the petitioner submits that the Trial Court has entertained the application for amendment after commencement of the trial, without recording its

satisfaction as required under the proviso to Order VI Rule 17 of the CPC.

2.1 It is further submitted that the application is belated and that no circumstances have been pleaded to demonstrate that, despite the exercise of due diligence, the proposed amendment could not have been sought before commencement of the trial.

2.2 It is contended that the Trial Court has committed an error in allowing the application, particularly when the same was filed after completion of the cross-examination of PW-1, with the intention of filling up the lacunae in the plaintiff's case.

3. Heard the learned counsel appearing for the petitioner and perused the impugned order and the material available on record.

4. The suit is one for mandatory injunction seeking removal of the iron gate and barbed wire fencing alleged to have been erected, thereby obstructing the road. The suit schedule describes the road by specifying its starting and ending points. The proposed amendment is intended to provide a more precise description of the suit schedule property by incorporating the

relevant survey numbers identifying the lands through which the road passes.

5. No doubt, ordinarily, an application for amendment filed after commencement of the trial is required to satisfy the due diligence requirement stipulated under the proviso to Order VI Rule 17 of the CPC. The liberal approach adopted by Courts while considering applications for amendment cannot be extended to dilute the statutory requirement under the said proviso.

6. However, the question as to whether every amendment sought after commencement of the trial necessarily requires satisfaction of the due diligence test, irrespective of the nature and purpose of the amendment, has been considered by a Coordinate Bench of this Court in ***Mohd. Rafi v. Bandenawaz***, ***2025 SCC OnLine Kar 25113***.

7. The Coordinate Bench has illustratively, and not exhaustively, identified certain categories of amendments which may be permitted even after commencement of the trial, without insisting upon satisfaction of the due diligence test contemplated

under the proviso to Order VI Rule 17 of the CPC. The relevant observations read as follows:

> ***25.*** *The Court is of the considered view that in the following instances (illustratively and not exhaustively), applications seeking amendment of pleadings can be allowed without the "due diligence test," even if such applications are filed "post-commencement of trial."*
>
> *Applications to:*
>
> *(a) correct typographical errors in the dates of events, documents, etc.;*
>
> *(b) correct property number, extent, location, or discrepancies in the boundary or any other misdescription of the property;*
>
> *(c) insert events and developments that have taken place post-filing of the suit and which have a bearing on the final decision;*
>
> *(d) incorporate a prayer owing to a subsequent event that has taken place during the pendency of the suit, keeping open the question of limitation;*
>
> *(e) add a few additional facts or furnish better particulars to the facts already pleaded;*
>
> *(f) add facts in support of the relief already claimed;*
>
> *(g) seek relief in the alternative, which is in the nature of a lesser relief than the one already claimed. Example : In a suit for declaration of*

exclusive title and injunction, an application seeking the alternative relief of partition.

(h) Seek additional relief or relief ancillary to the main relief when the relief sought by way of amendment is available based on the pleadings already made.

26. *In the aforementioned situations (broadly or generally speaking, excluding exceptional cases), in case the application seeking amendment of pleading is rejected on the premise that the applicant has not passed the "due diligence" test, it would cause injustice and would defeat the object of the first (main) part of Order VI Rule 17 of the Code, which aims at minimizing or avoiding multiplicity of litigation and provides for determining real questions in controversy between the parties.*

8. Two of the categories identified by the Coordinate Bench relates to furnishing better particulars of facts already pleaded and correcting the mis-description of the property. The said principle is relevant for consideration of the amendment sought in the present case.

9. In the present case, the proposed amendment is intended to identify the suit schedule property with greater precision by incorporating the relevant survey numbers. The incorporation of

the survey numbers is not intended to assert any independent right or title over the lands comprised therein. The same is sought only for the purpose of identifying the suit schedule road, which is the subject matter of the suit.

10. Therefore, the nature of the proposed amendment is essentially to furnish better particulars and facilitate proper identification of the suit schedule property. Such an amendment would fall within the illustrative categories recognised by the Coordinate Bench in the aforesaid decision.

11. It is also relevant to notice that the proposed amendment does not, by itself, establish any right or entitlement in favour of the plaintiff over the lands bearing the survey numbers sought to be incorporated. The correctness of the description and the entitlement of the plaintiff to the relief sought would necessarily have to be established by adducing evidence. The merits of the amended pleadings cannot be adjudicated at the stage of considering an application for amendment.

12. Further, merely because the amendment is permitted, the defendants would not be precluded from disputing the

correctness of the description or raising all permissible defences available to them in law. The burden of establishing the pleadings and proving entitlement to the relief claimed continues to rest upon the plaintiff.

13. In the circumstances, this Court is of the considered view that the proposed amendment is intended to facilitate proper identification of the suit schedule property and enable effective and comprehensive adjudication of the dispute. The same would also avoid multiplicity of proceedings.

14. Having regard to the nature and purpose of the proposed amendment and the law laid down by the Coordinate Bench of this Court, this Court finds no error or infirmity in the order passed by the Trial Court warranting interference in exercise of its writ jurisdiction.

Accordingly, the writ petition is ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

VN/ List No.: 2 Sl No.: 8