

**IN THE COURT OF V ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE AT BENGALURU**

Dated this the 26th day of March 2025

Present : **SRI.VEDAMOORTHY B.S.**, B.A.(L.), LL.B.,
XXXI Addl. City Civil & Sessions Judge, Bengaluru (CCH-14)
C/c V Addl. City Civil & Sessions Judge, Bengaluru (CCH-13)

O.S.No.1044/2017

PLAINTIFFS : Shyamala & others.

V/s

DEFENDANTS : Gundamma & others.

i.	Provision under which the applications are filed	I.A.No.X - Section 151 of the Code of Civil Procedure. I.A.No.XI – Order XVIII Rule 17 R/w Section 151 of the Code of Civil Procedure.
ii.	Reliefs sought for	To recall order dated 03.06.2021, to permit defendants No.9 to 11 to file their written statement and to reopen the case for the said stage.
iii.	The date on which the applications are filed	27.02.2024
iv.	Number of the applications	I.A.No.X & I.A.No.XI

v.	The date on which the objections are filed by different opponents	26.03.2024
vi.	The date on which the orders were passed on the said applications	26.03.2026

ORDERS ON I.A.No.X AND I.A.No.XI

Defendants No.9 to 11 have filed I.A.No.X under Section 151 of the Code of Civil Procedure and I.A.No.XI under Order XVIII Rule 17 R/w Section 151 of the Code of Civil Procedure seeking an order to recall order dated 03.06.2021, to permit them to file their written statement and to reopen the case for the said stage.

2. In support of I.A.No.X and I.A.No.XI, the 10th defendant has filed his affidavits.

3. The learned Counsel for the plaintiff has filed common objections to I.A.No.X and I.A.No.XI praying to dismiss I.A.No.X and I.A.No.XI.

4. Heard the arguments of the learned the Counsels for the plaintiff and defendants No.9 to 11 on I.A.No.X and I.A.No.XI. Perused the materials available on record.

5. The following point that has been arisen for my consideration:

Whether defendants No.9 to 11 have shown sufficient reason to recall order dated 03..06.2021 and to permit them to file the written statement by reopening the case for the said stage ? If so, what order?

6. My answer to the above point is in the Affirmative for the following:

REASONS

7. The plaintiffs have filed this suit against the defendants for declaration of their title on the suit schedule property and consequential relief of permanent injunction. While filing the suit, defendants No.9 to 11 were not parties. They were impleaded on the application filed by the plaintiff as I.A.No.VII. After the impleaded as defendants No.9 to 11, the plaintiffs have not taken steps to issue

summons on them. Therefore, no summons was served on defendants No.9 to 11. They voluntarily appeared before the Court and filed the written statement. In the affidavits filed by the 10th defendant in support of the present applications, they have stated that earlier the discussions were made for settlement of the matter and the plaintiffs have informed defendants No.9 to 11 that they will withdraw the suit. But, due to miscommunication, the settlement was canceled. There was some confusion and misconception that the written statement was already filed. Therefore, the delay is caused in filing the written statement. In the statement of objections filed by the learned Counsel for the plaintiffs, except the delay of 6 years in filing the written statement, no other grounds are urged to disallow defendants No.9 to 11 to file their written statement at this stage of the proceedings. As stated above, the summons were not served to defendants No.9 to 11 after they were impleaded in the suit. In the judgment relied by the defendants No.9 to 11 in the case between

Shantaram Hedgekatte V/s Srinivas Shankara Narayana Hegde [2026 (1) AKR 268], the Hon'ble High Court of Karnataka held that the provision of Order VIII Rule 1 of the Code of Civil Procedure for upper limit of 90 days to file the written statement is directly and not mandatory. No prejudice and injustice will be caused to the plaintiffs if defendants No.9 to 11 are permitted to file the written statement at this stage of the proceedings. If not, prejudice and injustice will be caused to defendants No.9 to 11 as they will be prevented from putting forth their defence. For the above reasons, defendants No.9 to 11 have shown sufficient reason to recall order dated 03..06.2021 and to permit them to file the written statement by reopening the case for the said stage. Hence, I answer the above point in the Affirmative. In the result, I proceed to pass the following :

ORDERS

I.A.No.X filed under Section 151 of Code of Civil Procedure and I.A.No.XI filed under Order XVIII Rule 17 R/w Section

151 of the Code of Civil Procedure by defendants No.9 to 11 are hereby allowed.

The written statement filed by defendants No.9 to 11 are taken record.

No order as to costs.

(Typed by the stenographer in the Court computer on my direct dictation, printout taken, corrected and then pronounced by me in the open court today on this the 26th day of March 2026)

(VEDAMOORTHY B.S.)

XXXI Addl. City Civil & Sessions Judge,
Bengaluru.

C/c V Addl. City Civil & Sessions Judge,
Bengaluru.