



**IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS JUDGE,
BALLARI.**

PRESENT:

**Smt.K.G.SHANTHI, B.Com., LL.M.,
PRINCIPAL DISTRICT AND SESSIONS JUDGE,
BALLARI.**

**DATED THIS THE 13th DAY OF SEPTEMBER, 2024
O.S.No.02/2013**

PLAINTIFFS:

Sri. Gadigi Gurubasavaraj and Others

(Rep.by Sri. KKR Advocate)

..Vs..

DEFENDANTS:

Smt. Sharabamma and Others.

(Rep. by Sri. R. Pandu & Sri. R. Sandeep , Advocates)

I.A.No.24/2019

**APPLICANT/
Plaintiff No.1:**

- 1. Sri. Gadige Gurubasavaraj, S/o. Late. Mariswamappa,
aged about 68 years, Agriculturist, R/o. 47/A,
Sanganakal Road, Gandhinagar, Ballari.**

..Vs..

OPPONENTS/ :
Defendants:

1. **Smt. Sharabamma and Others.**

ORDERS ON I.A.No. 24 FILED BY THE PLAINTIFF U/O.
VI, RULE-17 R/W. SEC. 151 OF CPC.

The plaintiff sought permission to amend the plaint by inserting the para 41(A), 41(B) and also under para 55(gg) and 55(ggg).

2. In the proposed amendment the plaintiff intends to add the pleading as the defendant No.1 to 3 created and fabricated false documents and submitted before the Land Acquisition Officer and they also managed and manipulated to get an order in their favour in LAC No.43/1987 on the file of Senior Civil Judge, Ballari, behind the back of this plaintiff and also intend to add the E.P. filed in E.P.No.325/2006 and E.P.No.140/2010 before the Principal Senior Civil Judge, Ballari for claim

amount of Rs.11,09,600.28 along with interest. Further taken up a contention that, E.P.No.325/2006 and E.P.No.140/2010 proceedings were stayed by this Court.

3. In para 41(B), the plaintiff intends to plead that, the compensation awarded in LAC No.43/1987 with regard to the acquisition of portion of plaint item No.1 and 2 property and the plaintiffs being the trustees, more particularly, in view of the Sarvajanika Mutt existing in the plaint item No.1 and 2 property, the Mutt has been constructed for the Sadviniyoga purpose by the ancestors of the plaintiffs and plaint properties being earmarked by the plaintiffs ancestors only for the purpose of religious and charitable act. It is also pleaded that, the Hon'ble Supreme Court of India in Spl. Leave Petition No.13309/2005, stated that it is a Sarvajanika Mutt and plaintiffs desire that the wishes of

their ancestors in the plaint schedule property to continue to carry religious and charitable activities and their desire to manage as Trustees of the plaint schedule property etc. In the prayer column, the plaintiff intends to add, to declare the acquisition amount ordered in LAC.No.43/1987, is the amount belonging to the Trust. And in para 55(ggg) plaintiff intends to add para as, to permit the plaintiffs to utilize the acquisition amount as the Trustees, for the religious, charitable and development of the Trust.

4. The defendants filed their objection in detail and contended that in LAC.No.43/1987 and in connected LAC Cases bearing LAC. No.8/2010 to 11/2010, belongs to Sri. Prabhu Rajashekhara Reddy, Sri. Khaja Mohiddin, Sri. Kappagal Ayyappa, Sri. Thimmanagouda, Sri. Obaleshappa, Sri. Nagappa his LR. Sri. Raju, the award has been passed in their names. In the

objection, they denied the contention taken by the plaintiff under proposed amendment. It is also contended that, the proposed amendment will change the nature of the suit and cause of action. It is also contended that the plaintiffs who are the parties in O.S.No.848/1966, R.A.No.55/1980, RSA.No.642/1998 and SLP.No.13309/2005, the plaintiff has not succeeded in the matter and now came with second round of litigation. It is also contended that, O.S.No.342/2006 filed against the LRs of Sri. Rudramuni Swamy and others before the 1st Addl. Civil Judge (Sr.Dn.), Ballari, to claim the share amount in LAC.No.43/1987 and the said suit has been dismissed. Further contended that, the suit is filed in the year 2013 and the amendment sought in the year 2019 for more than six years, so, the application is not maintainable. Accordingly, pray for dismissal of the application.

5. Arguments heard.
6. The points arose for my consideration are :

- 1. Whether there are sufficient grounds to allow the I.A.No.24 filed by the plaintiff U/O.VI Rule-17 CPC?**

- 2. What order ?**

7. My answers to the above points are

Point No.1 : In the Affirmative

Point No.2 : As per final order for the following :

REASONS

8. **Point No.1 :-** The plaintiffs filed a suit against the defendants and issue has been framed placing burden on the plaintiff to prove, whether the suit schedule properties are public charitable and religious nature, and also it is on the plaintiffs to prove that the defendants have committed the breach of trust by

misusing and misutilizing the schedule property. As the defendants have taken up a contention that, the suit is hit by the principle of res-judicata, issue No.3 has been framed placing burden on the defendants that, whether the suit is hit by the principle of res-judicata.

9. Now the plaintiff by way of proposed amendment, intend to plead regarding the earlier proceedings in LAC.No.43/1987 and also regarding pendency and disposal of the Execution Petitions. According to the plaintiff in LAC.No.43/1987, compensation has been awarded with respect to the item No.1 and 2 of the schedule property. The defendant No.1 to 3 created and fabricated the documents in order to receive the claim amount on the basis of false and fraudulent documents.
10. The plaintiff claims that compensation awarded in LAC No.43/1987 is belong to the Trust and not any other

person and the said amount should be utilized only for the purpose of religious, charitable and development of the Trust activities.

11. The Order VI Rule 17 CPC reads as under:-

O.VI. Rule 17: Amendment of Pleadings.- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

12. There is no material placed by defendant to show that the proposed amendment will change the cause of

action and nature of the suit. The proposed amendment sought by the plaintiff only with respect to earlier proceedings in LAC. In this case evidence is not yet commenced. No hardship or injury will cause to the defendants if application is allowed, as they have get an opportunity to file additional written statement. So, in order to avoid the multiplicity of proceedings and to meet the ends of justice, I am of the opinion that, it is just and reasonable to allow the application. In order to ascertain the real controversy between the parties, I am of the opinion that, it is just and necessary to allow the application. Accordingly, in the interest of justice, I allow the application and answer **Point No.1 in the Affirmative.**

13. **Point No.2 :-** In the result, I proceed to pass the following :

ORDER

I.A.No. 24 filed the plaintiff under Order VI Rule 17 r/w Section 151 of CPC is allowed.

The plaintiff is permitted to carry out the amendment and directed to file the amended plaint.

(Dictated to the Stenographer Grade-II, typed by her by transcribing the same, then corrected, signed and then pronounced by me in the open Court on this **13th day of September 2024**)

(K.G.Shanthi)

Principal District and Sessions Judge,
Ballari.