

KABK700005192012



O.S./106/2012

IN THE COURT OF PRL SENIOR CIVIL JUDGE & JMFC JAMKHANDI

Present:

**Shri.Rajashekhar.S. Harsoor
B.A. LL.B.,
Prl. Senior Civil Judge & JMFC Jamkhandi.**

O.S.No.106/2012

Dated the 16th day of October 2025.

Between:

1. Shri. Mallikarjun S/o. Ghulappa Yallur,
Age: 26 years, Occ: Service in Indian Army
R/o. Gothe village, Tq: Jamkhandi, Dist: Bagalkot.
2. Smt. Mahadevi W/o. Ghulappa Yallur,
Age: 45 years, Occ: Household work,
R/o: Gothe village, Tq: Jamkhandi, Dist: Bagalkot.

....Plaintiffs.

(Represented by Miss. K.P.O., Advocate)

And:

1. Shri. Gurubasappa S/o. Ningappa Yallur,
Age: 60 years, Occ: Agriculture,
R/o: Buralatti village, Tq: Athani, Dist: Belagavi.

2. (Smt. Basavva W/o. Ravasab Santtiyur @ Yallur,
(Since died through her legal heir.)
- 2A. Smt. Sayanvva W/o. Mahadev Yallur,
Age: 50 years, Occ: Household work,
R/o: Buralatti village, Tq: Athani, Dist: Belagavi.
3. Shri. Ghulappa S/o. Ningappa Yallur,
Age: 56 years, Occ: Agriculture,
R/o: Buralatti village, Tq: Athani, Dist: Belagavi.
4. Smt. Tayawva W/o. Pawadi Yakkundi,
Age: 54 years, Occ: Agriculture,
R/o: Buralatti village, Tq: Athani, Dist: Belagavi.
5. Shri. Mahadev S/o. Ningappa Yallur,
Age: 52 years, Occ: Agriculture,
R/o: Buralatti village, Tq: Athani, Dist: Belagavi.
6. Smt. Laxmibai W/o. Mallappa Badabadi,
Age: 40 years, Occ: Household work,
R/o. Satti village, Tq: Athani, Dist: Belagavi.
7. Smt. Gangawva W/o. Kallappa Chanaveer,
Age: 48 years, Occ: Household work,
R/o: Kajibilagi village, Tq: Jamkhandi, Dist: Bagalkot.
8. Smt. Gouravva D/o. Ningappa Yallur,
Age: 46 years, Occ: Household work,
R/o: Buralatti village, Tq: Athani, Dist: Belagavi.

....Defendants

(Defts No.1 & 5 are represented by Shri.L.A.N. Advocate)

(Defendant No.4 placed Ex-parte)

(Deft No.3 is represented by Shri.A.M.K. Advocate)

(Deft No.6 absent)

(Defts No.2(a), 7, 8 are represented by Sri.A.V.B. Advocate)

: PARTIES IN I.A No.XIII:

1. Shri. Ghulappa S/o. Ningappa Yallur,
Age: 56 years, Occ: Agriculture,
R/o: Buralatti village, Tq: Athani, Dist: Belagavi

...Applicant/defendant No.3**- Vs -**

1. Smt. Sayanvva W/o. Mahadev Yallur,
Age: 50 years, Occ: Household work,
R/o: Buralatti village, Tq: Athani, Dist: Belagum
& others.

...Opponents/defendants.

i.	Provision under which the application is filed	:	I.A.No VIII Rule 9 R/w 151 of CPC.
ii.	Relief sought for	:	Seeking leave to file written statement of defendant No.3
iii.	The date on which the application is filed	:	17.04.2025
iv.	Number of the application	:	I.A.No.XIII
v.	The date on which the objection is filed by different opponents	:	05.06.2025
vi.	The date on which the order was passed on the said application	:	16.10.2025.

ORDER ON I.A.No.XIII

1. The defendant No.3 has filed I.A.No.XIII U/O.VIII Rule 9 R/w 151 of CPC seeking leave to file his written statement & counter claim.

2. In support of above application, the defendant No.3 has sworn to an affidavit, wherein he mainly stated that, his first wife & son have filed this suit against him and his siblings for the relief of declaration, partition & separate possession. The present suit came to be decreed on 21.08.2014. Thereafter he challenged the judgment & decree passed herein before the Hon'ble I Addl District & Sessions Judge Bagalkot sitting at Jamkhandi in R.A No.5009/2021. Said regular appeal came to be allowed in part. Therefore he challenged the judgment & decree passed in said regular appeal before the Hon'ble High Court of Karnataka Dharwad Bench in RSA No.100226/2023. The Hon'ble High Court of Karnataka Dharwad Bench has allowed the appeal by setting aside the judgment & decree passed herein this suit. He further stated that, the relationship between himself & other defendants become strained since last few months. They have not intimidated him

as to disposal of said regular second appeal. Recently he met with his advocate and came to know about disposal of said regular second appeal. Thereafter he obtained the copy of judgment passed in said appeal on 06.02.2025. Thereafter he applied for the documents and got prepared his written statement & counter claim. Thus the delay was caused in filing the same. With this he prayed to allow him to file his written statement & counter claim.

3. On the contrary, counsel for the defendants No.5, 7 & 8 has deliberately filed objection to above application contending that, said defendant filed written statement & counter claim along with above application at belated stage in collusion with the plaintiffs. He has purposely filed this application after completion of the cross examination of PW.1 and after commencement of the defendants' evidence. They further contended that, the contents of the written statement may be treated as objection to above application. With this the defendants No.5, 7 & 8 have prayed for rejection of above application.

4. No any objection is filed by the plaintiffs.

5. Heard both side. Perused the application, objection thereto and all other materials on record. Upon going through the same, the following points arise for consideration:

POINTS

1. Whether the defendant No.1 has made out grounds to allow above application ?

2. What order?

6. This court answers to above points as under;

Point No. 1: In the affirmative,

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

REASONS

7. **Point No.1**: The defendant No.3 filed this application seeking leave to file his written statement along with counter claim. It is to note here that, this suit was disposed off on 21.08.2014. In RSA.No.100226/2023 (DEC/PAR) the Hon'ble High court of Karnataka Dharwad bench has set aside the judgments & decrees passed by this court & Hon'ble first appellate court and remanded the suit for afresh disposal or

consideration within a period of nine months from 20.10.2024.

8. The defendant No.3 has appeared on 11.03.2025 and filed IA.No.IX U/o. IX Rule 7 of CPC to set aside the Ex-Parte passed against him. This court has allowed said application and permitted him to proceed with the case. On 17.04.2025 he filed this application seeking permission to file his written statement along with counter claim. On 05.06.2025, the defendants No. 13 to 15 have filed objection to above application. Since the present suit is remanded for afresh disposal, this court is of opinion that it is just & necessary to provide as equal opportunity to both the parties to adduce their evidence. It is to note that since the direction is issued by Hon'ble High Court of Karnataka for speedy disposal within stipulated time, it is an obligation of the parties to extend their full co-operation for speedy disposal of the case. Having regard to the reasons assigned in the affidavit annexed to above application and in order to give a full & fair opportunity to both the parties, this court is of opinion that, if above application is allowed on reasonable costs, no harm or

prejudice would be caused to the plaintiffs. On the contrary, if not allowed, the defendant No.3 would be put to hardship rather than the plaintiffs. In view of above discussion point No.1 is answered in the affirmative.

9. Point No.2 : In view of above findings, the following order is passed:

ORDER

I.A.No XIII filed U/O VIII Rule 9 R/w 151 of
CPC by the defendant No.3 is hereby allowed
on cost of Rs.3,000/-.

(Dictated to the stenographer directly on computer, typed by her, corrected then pronounced by me in the open Court on this the 16th day of October 2025)

(Sri. Rajashekhar S. Harsoor)
Prl. Senior Civil Judge & JMFC,
Jamkhandi.