

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

PRESENT:

Sri. Arun Kumar.G. B.A., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

Dated this the 10th day of April - 2026

O.S.No.614/2023

Plaintiff/s : Sri.Chikkamuniyamma @ Rathnamma

- V/s -

Defendant/s : Sri.Chikkanna & Ors.

Applicant/s : Sri.N.Mubeen

Provision under which the application is filed	1) Order 6 Rule 16 R/w Section 151 of CPC
Relief sought for	To strike out the name and schedule property
The date on which the application is filed	09-02-2026
Number of the applications	I.A.No.8
The date on which the objection is filed by the different opponents	25-02-2026
The date on which the order is passed on the said application	10-04-2026

Orders on I.A.No.8

The defendant No.7 has filed the above application under Order 6 Rule 16 R/w Section 151 of CPC seeking permission to strike out his name and suit schedule item No.19 & 20 properties in the above case.

2. In the annexed affidavit it is stated that the plaintiff has filed the above suit against the defendant No.1 to 6 for partition and declaration against the defendant No.7 to 9 in respect of the suit schedule properties is itself not maintainable either in law or on facts and the same is liable to be dismissed. The plaintiff and her family members are no way concerned to the suit schedule item No.19 and 20 properties and the same was originally belongs to one Nanjundachari and Giryappachar. This defendant had acquired right, title and ownership over the said properties through registered sale deeds dated 25-3-2022. Neither the plaintiff nor the defendant No.1 to 6 have no way concerned to the suit item No.19 and 20 properties. But, in order to knock off the properties belongs to this defendant have illegally included his properties in the above suit without any semblance of right or claim and she is

absolutely nothing to do with his properties. Hence, prays to allow the application.

3. The plaintiff filed objections to the above application by denying the statement made by the defendant No.7 and further contended that she herself and defendant No.1 to 6 are the Hindu undivided joint family members and the suit schedule properties are the ancestral and joint family properties of themselves and they are in joint possession and enjoyment over the same. When the plaintiff demanded for partition the defendants refused to do so. But, the defendant No.7 to 9 have illegally entered into the RTC extracts and created some forged documents in their favour without the knowledge and consent of the plaintiff. Hence, the application is not maintainable and without adducing evidence the above application is not maintainable. Hence, on other reason prays to reject the application with costs.

4. Based upon the above contentions, the following points arise for consideration of this court:

1. Whether the defendant No.7 has made out sufficient grounds to allow the application?

2. What order?

5. Heard arguments. On due perusal of the records, the court findings on the above points are as under:

Point No.1 : In the Affirmative,
Point No.2 : As per final order
for the following;

REASONS

6. **Point No.1:-** The above suit is filed by the plaintiff for the relief of partition and separate possession in respect of suit schedule properties against the defendants. According to the plaintiff, she herself and defendant No.1 to 6 constitutes a Hindu undivided joint family and they are in joint possession and enjoyment over the suit properties. The defendant No.1 to 6 by creating documents with respect to suit schedule properties have sold the same in favour of third parties though she is having equal share in the schedule properties.

7. The defendant No.1 to 6 filed written statement wherein they have denied the existence of joint family and also taken a specific contention that the plaintiff is not having any cause of

action and also the same is barred by limitation. There was already a litigation between the parties in O.S.No.595/1989.

8. It is the specific contention of the defendant No.7 that the suit schedule item No.19 and 20 properties were purchased by him through registered sale deeds dated 25-3-2022 from one Saraswathamma and Viswanathachar and his family members for valuable consideration. Further, stated that earlier the suit schedule item No.19 and 20 properties were originally belongs to one Dodda Chowdappa S/o Poojari chowdappa and Chikkachowdappa who in turn sold the same in favour of Venkataramanappa and Kempanna jointly.

Further, they have sold a portion in Sy.No.59 an extent of 4 acres 21 guntas including 5 guntas of karab in favour of Nanjundachar and Giriappachar through registered sale deed dated 28-3-1953 and further sold the same in favour of Mariyanna on 10-9-1953. The said Mariyanna to meet his family and legal necessities has sold the same in favour of Giriappachar and Nanjundachar through sale deed dated 20-10-1954. Further, the said Giriappachar and Nanjundachar sold the same in

favour of Basappa who inturn sold again in favour of Giriyappachar and Nanjundachar on 14-9-1956.

After purchase of the said property the suit item No.19 and 20 properties were phoded and renumbered as Sy.No.59/1 and 59/2 and it was lost its original survey number and as per MR.No.8/1991-92 katha was mutated in the name of purchaser. Thereafter, the said Giriyappachar and Nanjundachar entered into a family partition on 10-2-1999 in respect of said properties. In the said partition northern portion of the said land measuring 2 acres 8 guntas in Sy.No.59/2 was allotted in favour of Nanjundachar and remaining portion 2 acres 8 guntas was allotted to Giriyappachar and the same was mutated in their names under MR.No.12/2000-01.

After the death of said Nanjundachar the said property was succeeded by his wife and children by name Saraswathamma and others under MR.No.15/2014-15. Further, after the death of Giriyappachar katha was mutated in favour of Viswanathchar and others under MR.No.11/2000-01. Thereafter, the said Sy.No.59/2 was phoded and renumbered as Sy.No.59/3 an extent of 2 acres 8 guntas along with 2.8 guntas of karab in the name of Viswanathchar and originally Sy.No.59/2 an extent of 2

acres 8 guntas with 2.8 guntas of karab was retained in the name of Saraswathamma. Thereafter, they have sold the same in favour of defendant No.7 through registered sale deeds dated 25-3-2022. By virtue of the sale deeds, katha was mutated in his name under MRH.No.35/2021-22. From the date of purchase he is in continues possession and enjoyment over the same.

9. In order to prove the same, the defendant No.7 has produced the copy of sale deeds, preliminary records, tippani, karda records, hissa sketch, RTC and mutation extracts. Further, he has also produced the copy of sale deed dated 25-3-2022 wherein the source of title with respect to suit item No.19 and 20 properties were reflected.

10. In order to prove that the said properties were belongs to the joint family properties of Chikka Munishamappa and others, the plaintiffs have not produced any material documents.

11. Before going into the merits of the case I would like to refer the provisions of Order 6 Rule 16 of CPC which is involved in

the instant case. For better understanding the said provision is reproduced as under:

Order 6 Rule 16 Striking out pleadings:- *The court may at any stage of the proceedings order to be struck out or amended any matter in any pleading-*

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(e) which is otherwise an abuse of the process of the Court.

12. Order 6 Rule 16 of CPC has been substituted by the CPC (Amendment) Act 1976. This provision deals with the amendment or striking out of the pleadings, which a party desires to be made in his opponents pleadings. In other words The plaintiff and the defendant may ask the court for striking out of the pleadings of his opponent on the ground that the pleadings are shown to be unnecessary, scandalous, frivolous or vexatious. This rule is based on the principle of *ex debito Justitiae*. The court is empowered under this rule to strike out any matter in the

pleadings that appears to be unnecessary. scandalous, frivolous or vexatious or which tends to prejudice. embarrass or delay the fair trial of the suit.

13. Herein this case on perusal of preliminary records, index of lands and tippani records clearly discloses that the suit item No.19 and 20 properties bearing Sy.No.59/2 and 59/3 are originally belongs to Giriyappachar and Nanjundachar from the year 1959. Further, he also produced sale deeds of his vendors and the RTC extracts clearly discloses the name of his vendors. It clearly goes to show that before the birth of the plaintiff the suit schedule item No.19 and 20 properties were acquired by the vendor's vendor of the defendant No.7 and they are in continues possession and enjoyment over the same. If the suit is continued and after recording of evidence the plaintiff will not get any right or share in the said properties because the said properties were already sold on 30-9-1940 from one Dodda Chowdappa and Chikka Chowdappa in favour of Venkataramanappa and Kempanna. It clearly goes to show that at the time of sale transactions the plaintiff was not born.

14. Further, as per cause title the age of the plaintiff was mentioned as 62 years as on the year 2023. It shows that the plaintiff would have born in the year 1961 and she was not born at the time of sale transaction which took place in the year 1940.

15. Further, on perusal of available records and the pleadings, if the plaintiff knew about the sale transactions which were took place in the year 1940 and on subsequent dates with the vendor's vendor of the defendant No.7, in all fairness she must have disclosed it and sought for partition by disclosing about the source of acquisition and whether the said suit item No.19 and 20 properties were belongs to their family.

16. Therefore it appears that the plaintiff has filed present suit only in order to make wrongful gain from defendants. The plaintiff did not disputed the sale deed executed in the year 1940 in her objections filed to the present application. Therefore it appears the plaintiff has suppressed material facts and filed present suit in order to made wrongful gain from defendants.

17. The Hon'ble Apex Court in the case of **Dalip Singh V/s State Of Uttar Pradesh and Ors.** reported in **2010(2) SCC 114** their lordship have beautifully explained suppression of material facts by the parties to the litigation in resent days. The relevant portion is extracted as under:

1. For many centuries, Indian society cherished two basic values of life i.e., 'Satya' (truth) and 'Ahimsa' (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of justice delivery system which was in vogue in pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-independence period has seen drastic changes in our value system. The materialism has over-shadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not to hesitate take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time,

evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

18. Further, it is also relevant to refer the ratio laid by the Hon'ble High Court of Karnataka reported in W.P.No.6527/2023 between Smt.Lakshamma V/s Sri.A.Shamanna & Ors. wherein it is held that:

“If the impugned order is read, it appears very well that the court below has applied its mind and given proper reasons to allow the applications. The language of Order 6 Rule 16 of CPC is so plain that the court can exercise the power under this provision at any stage; the only requirement is that any matter in the pleading must appear to be unnecessary, scandalous, frivolous or vexations. Suppression of a material fact and taking up a plea contrary to it can be considered by the court for exercising power under Order 6 Rule 16 of CPC.”

19. Herein this case the plaintiff has failed to produce any material documents to show that as on the date of sale

transactions dated 30-09-1940 and subsequent dates she had right to succession in the suit properties. Bringing the suit for partition in respect of all the properties were not only unnecessary but also scandalous in the sense that it was disgraceful on her part to claim partition in respect of properties which were not belongs to her family. Therefore, the defendant No.7 is unnecessary party to the present suit and the pleadings relating to the suit item No.19 and 20 properties are to be strike out which are not belongs to the properties of the plaintiff's family. Further, the presence of the defendant No. 7 is also not necessary to adjudicate the suit on merits. Therefore, in view of the same, point No.1 is answered in "**Affirmative**".

20. **Point No.2** :- In view of the aforesaid findings on point No.1, I proceed to pass the following:

ORDER

I.A.No.8 filed by the defendant No.7 under Order 6 Rule 16 R/w Section 151 of CPC is hereby allowed.

Consequently, the suit item No.19 and 20 properties are ordered to be strike out from the suit.

Further, the defendant No.7 is ordered to be strike out from the suit.

The plaintiff is hereby directed to amend the plaint after strike out of the defendant No.7 from the cause title and the suit item No.19 and 20 properties within 14 days from the date of order and shall file the amended plaint accordingly.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced by me in the open court on this the 10th day of April 2026.)

(Arun Kumar.G)
Senior Civil Judge & JMFC,
Hosakote.

