

KABR610039722022



**IN THE COURT OF THE I ADDL CIVIL JUDGE AND
JMFC., NELAMANGALA**

Dated this the 2nd day of July, 2026

**PRESENT: SRI.MANJU.M, B.sc., L.L.B.,
I Addl. Civil Judge & JMFC.,
Nelamangala.**

OS.No.522/2019

Plaintiff: B.K.Kempegowda,
S/o late Kempegowda,
Aged about 57 years, R/at No.39,
Haddinakallu Residency, Pipeline
Road, Mallasandra,
T.Dasarahalli, Bengaluru-057.

[By Sri P.C.M., Advocate]

-V/s-

Defendants:1. B.Rajanna S/o late Byranna,
Aged about 67 years,
R/at No.7, 2nd Floor, 1st Main,
3rd Cross, Lakshmidevi Nilaya,
Subedar Palya, Yeshwanthpur Post,
Bengaluru-560 022.

2. Brinda Mohan W/o late Mohankumar,
Aged about 50 years,
R/at No.482, 8th Main,
vijaya Bank Colony, Bilekalli Post,
Bannerghatta Road, Bengaluru.

3. T.R.Jayaramegowda,
S/o Rangegowda, Police Department,
Aged about 40 years,
R/at No.2, 31st block,
3rd A Main Road, Police Quarters,
Magadi Road, Vijayanagara,
Bengaluru-560 023.
4. Venkatesh S/o Govindappa,
Aged about 40 years,
Arinikaunte, Basaveshwara Nagar,
Kasaba Hobli, Bengaluru Rural
District.
5. N.C.Muniyappa,
W/o late Chikka Venkatappa @
Chikkarevkataramanappa,
Aged about 66 years,
R/at No.9, 1st A Main,
MCHS, HSR Layout, Sector-6,
Bengaluru-560002.

[D1, 4 and D5 Exparte]
[D2, D3 by Sri S.N.,Advocate]

Parties on I.A.No.4

Applicant/plaintiff: B.K.Kempegwoda

V/s

Opponent/Defendant: B.Rajanna and others.

ORDER ON IA.NO.4

This is an application filed by the plaintiff under
Order 6 Rule 17 read with Section 151 of CPC prays
to permit to amend the plaint as sought for.

2. This application is supported by an affidavit of the plaintiff. In the said affidavit the Applicant has submitted that the plaintiff has filed a suit for the relief of permanent injunction and for such other reliefs by contending that he is the owner in possession of the suit schedule property. Further, it is submitted that after filing the written statement, the plaintiff came to know that there is a judgment and decree in O.S.No.116/2010. Further, O.S.No.36/2011 is not filed against the plaintiff and it is an uncontested and collusive suit. Further, it is submitted that the schedule property in O.S.No.36/2011 is not the valid and actual property. The Judgment and decree passed in O.S.No.36/2011 dated 24.11.2014 passed by the Hon'ble Senior Civil Judge, Nelamangala is not binding on the plaintiff. Further, it is submitted that the decree obtained by the plaintiff in O.S.No.36/2011 by playing fraud and collusion. Hence, it is necessary to bring the proposed amendment in this suit. Further, it is

submitted that the plaintiff is the bonafide purchaser and having lawful rights having actual physical possession over the suit schedule property. Further, it is submitted that the proposed amendment is necessary for adjudication of the suit. Hence, prays to allow the application.

3. This application is opposed by the defendant No.2 and 3 by filing objection and denied the allegation of fact made by the plaintiff and contended that the application filed by the plaintiff is not maintainable either in law or on facts and same is liable to be dismissed. Further, it is contended that the Judgment and decree passed in O.S.No.32/2021, O.S.No.28/2011, O.S.No.132/2011, O.S.No.56/2011, O.S.No.108/2011 and O.S.No.29/2011 by Hon'ble Senior Civil Judge, Nelamangala is binding on the person, who is the subsequent purchasers or the persons claiming through the erstwhile owners. Further, the

erstwhile owners of the plaintiff suffer decree and they have not challenged the same before the appellant court. In view of the same, the application filed by the plaintiff is not maintainable. Further, it is contended that the plaintiff with an intention to drag the proceedings has filed this application. Hence, prays to dismiss the application.

4. Heard arguments of counsel for plaintiff and defendant No.2 and 3 have not addressed their arguments.

5. In view of the rival contentions raised by the parties, the points that arise for my consideration are as follows:

- 1) Whether the application deserves to be allowed or not?
- 2) What Order?

6. Now, my answers to the above points are as follows:

Point No:1:- In the Negative

Point No:2:- As per final order for the following;

REASONS

7. **Point No:1:** It must be noted that, I need not repeat the entire contention of the parties herealso, since, I have already narrated the same at the inception of this order.

8. Keeping in view, the rival contentions raised by the parties again I have perused the present application under Order 6 Rule 17 of CPC filed by the Plaintiff. It is relevant to note that through this I.A, the plaintiff is seeking permission to amend the plaint and seeking that the Judgment and decree passed in O.S.No.36/2011 dated 24.11.2014 passed by Hon'ble Senior Civil Judge, Nelamangala is not binding on the plaintiff and same is void.

9. Further, it is made clear that this court cannot give any findings about the Judgment and decree passed in O.S.No.36/2011 by Hon'ble Senior Civil Judge and JMFC, Nelamangala and the plaintiff is seeking the declaratory relief about Judgment and decree passed in O.S.No.36/2011. Further, the

proposed amendment sought by the plaintiff is not maintainable. Further, it is relevant to note that the provision Under Order 6 Rule 17 of CPC does not permit the plaintiff to file this application. Further, the plaintiff has not made out a proper and relevant grounds for allowing this application, Hence, this court is proceed to answer **point No.1 in the Negative.**

10. Point No.2: In view of my findings to point No.1, I proceed to pass the following:

ORDER

I.A.No.4 filed by the applicant/
plaintiff under Order 6 Rule 17 R/w
section 151 of CPC is dismissed on
cost of Rs.500/-.

(Dictated to the Stenographer directly on computer, typed by him, corrected and signed by me and then pronounced in the open Court, on this **2nd day of July, 2026**)

Sd/-
I Addl. Civil Judge and JMFC.,
Nelamangala.