

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND**  
**J.M.F.C AT NELAMANGALA**

**PRESENT: Smt. Namrata Rao.K.S**  
B.A.L, L.L.B., M.B.L  
Prl. Civil Judge & J.M.F.C.  
Nelamangala.

**Dated:     This the 16<sup>th</sup> day of February, 2021**

**O.S.No.52/2009**

- Plaintiff/s:** 1.    Sri Bylahanumaiah  
                         S/o late Sanjeevaiah  
                         aged about 53 years,  
                         R/at. Nagasandra,  
                         Dasanapura Hobli,  
                         Bengaluru North Taluk.
2.    Sri Anjanappa  
                         S/o late Thimmaiah,  
                         aged about 45 years,  
                         R/at. Thippenahalli,  
                         Nagasandra Dhakle,  
                         Dasanapura Hobli,  
                         Bengaluru North Taluk.

3. Sri Ramakrishna  
S/o late Giriyappa,  
aged about 48 years,  
R/at. Kuduregere,  
Dasanapura Hobli,  
Bengaluru North Taluk.

V/s

- Defendant/s:**
1. Sri Shivalingappa  
S/o late Nidumudiyappa,  
aged about 45 years,
  2. Sri Rajanna  
S/o late Nidumudiyappa,  
aged about 42 years,
  3. Sri P.D.Chandrasekhar,  
S/o late Nidumudiyappa,  
aged about 35 years,
  4. Sri Eashwara  
S/o late Nidumudiyappa,  
aged about 32 years,
  5. Sri Palanethra  
S/o late Nidumudiyappa,  
aged about 30 years,

6. Sri Lingaraju  
S/o late Nidumudiyappa,  
aged about 28 years,
7. Sri Siddalingappa,  
S/o late Gangappa,  
aged about 22 years,
8. Sri Prakash  
S/o late Gangappa,  
aged about 22 years,
9. Sri Basavaraj  
S/o late Gangappa,  
aged about 20 years,
10. Sri Gangappa  
S/o late Karibasappa,  
aged about 33 years,

Defendants No.1 to 10 are R/at.  
Kuduregere, Dasanapura Hobli,  
Bengaluru North Taluk.

11. Smt Lakshmamma  
W/o late Basappa,  
aged about 50 years,  
R/at. Hanumapura,  
Dasanapura Hobli,  
Bengaluru North Taluk.

12. Sri D.Chandrashekar  
S/o late Doddagangaiah,  
aged about 35 years,  
R/at. Ayandanahalli,  
Tippasandra Hobli,  
Magadi Taluk.
13. Sri N.Jayaramaiah  
S/o late K.M.Narayanaswamy,  
aged about 34 years,
14. Smt Ashwini Kumar  
W/o late M.Kumar,  
aged about 27 years,  
R/at. Kuduregere Colony,  
Dasanapura Hobli,  
Bengaluru North Taluk.
15. M.Girish  
S/o late,  
aged about 40 years,
16. Smt Gowramma.B.M.  
W/o B.Thammannaiah,  
aged about 38 years,  
R/at. No.134, III Cross,  
K.N.Extension, Triveni Road,  
Yeshwanthpur, Bengaluru.
17. Sri S.R.Manjunath  
S/o Ramaiah,

R/at. No.49, 1<sup>st</sup> Cross,  
Opp: Tavarekere Primary School,  
Hosur Road, Bengaluru – 81.

18. Sri S.R.Ramakumar  
S/o S.R.Ramaiah,  
R/at. No.49, 1<sup>st</sup> Cross,  
Opp: Tavarekere Primary School,  
Hosur Road, Bengaluru – 81.
19. Sri B.M.Shivamurthy  
S/o B.R.Mallesappa,  
R/at. No.894, 7<sup>th</sup> 'A' Road,  
Triveni Road, Bengaluru -22.
20. Sri S.Ameena Begum  
W/o Syed Bab Frakruddin,  
aged about 32 years,  
R/at. No.1199/4 V Cross, V Main,  
L.N.Colony, Yeshweanthpur,  
Bengaluru -22.
21. Sri S.Karuna Nidhi  
S/o Somasundaram,  
aged about 47 years,  
R/at. No.195,  
Opp. Gayatri Temple,  
Yeshweanthpur, Bengaluru -22.
22. Sri Afi Sabi @ Naseem

W/o Mohammed Nasarulla,  
aged about 50 years,  
R/at. No.1199/4, V Cross, V Main,  
L.N.Colony, Yeshweanthpur,  
Bengaluru -22.

23. Smt Thangamani  
W/o Mahalingam,  
aged about 48 years,  
R/at. No.258, I Main,  
B.K.Nagar, Bengaluru -22.
24. Sri A.R.Rangaswamy  
S/o K.Rangaiah,  
aged about 47 years,  
R/at. Ramachandra Nilaya,  
T.Dasarahalli,  
Bhuvaneshwari Nagara,  
Bengaluru – 57.
25. Sri Govindaraju  
S/o Erathimmaiah,  
aged about 39 years,  
R/at. No.1373, Sri Ramachandra Nilaya,  
Bhuvaneshwari Nagara,  
T.Dasarahalli, Bengaluru – 57.
26. Sri Nataraju  
S/o Narasaiah,  
aged about 29 years,

R/at. No.267, Maheshwaramma Temple,  
Old Check Postt, T.Dasarahalli,  
Bengaluru – 57.

27. Smt Leelavathi  
W/o P.Aswath,  
aged about 48 years,  
R/at. No.682, I D Main, II Block,  
Rajajinagar, Bengaluru – 10.
28. Sri T.H.Rangappa  
S/o Hanumaiah,  
aged about 30 years,  
R/at. No.33, Pruthvy Nilaya II Cross,  
Nelagadaranahalli Main Road,  
Bengaluru – 73.
29. Sri Krishna Reddy.M.V.  
S/o M.R.Vasanthaiah Setty,  
aged about 50 years,  
R/at. No.76, WC Road,  
Manjunathanagar, Bengaluru -10.
30. Sri Ramesh Babu  
S/o M.Krishnaiah Shetty,  
aged about 38 years,  
R/at. No.76, WC Road,  
Manjunathanagar, Bengaluru -10.
31. Sri Kempaiah  
S/o Hanumantharayappa,

aged about 35 years,  
R/at. No.13, Vinayaka Nilaya,  
Chikkabanavara Railway Gate,  
Bengaluru -90.

32. Sri K.R.Narasimharaju  
S/o Ranganarasimhaiah,  
aged about 35 years,  
R/at. Kadirahalli Laxmipura Post,  
Dasanapura Hobli,  
Bengaluru North Taluk.
33. Smt T.Prema  
W/o K.R.Narayanaswamy,  
aged about 26 years,  
R/at. Kadirahalli Laxmipura Post,  
Dasanapura Hobli,  
Bengaluru North Taluk.
34. Sri Udayakumar Taralagatti  
S/o late Mahadevappa Talagatti,  
aged about 50 years,  
R/at. No.1168, V Block, 18<sup>th</sup> Cross,  
Rajajinagar, Bengaluru -10.
35. Sri M.R.Ramesh Verma  
S/o late M.S.Rangaswamy,  
aged about 49 years,  
R/at. No.1, II Stage, IV Main,  
Postal Colony, Venkatappa Layout,  
Bengaluru – 94.

36. Smt Vyjanthimala V Hegde  
W/o V.G.Hegde,  
aged about 50 years,  
R/at. No.534, Anugraha IV B Main,  
Gruhalakshmi Layout,  
Nelagadaranahalli, Bengaluru – 73.
37. Sri J.R.Venkataswamy  
W/o late Rangaiah,  
aged about 43 years,  
R/at. No.10/1, 7<sup>th</sup> Main Road,  
Kalappa Block, Bengaluru – 50.
38. Sri Govindaraju  
S/o late Kariyappa,  
aged about 31 years,  
R/at. Chikkabanavara,  
Hesaraghatta Main Road,  
T.Dasarahalli, Bengaluru -57.
39. Sri R.Rajagopal  
S/o M.Rangaswamy,  
aged about 58 years,  
R/at. No.1, II Stage,  
IV Main, Postal Colony,  
Venkatappa Layout,  
Sanjayanagara, Bengaluru -94.
40. Sri S.C.Shekar  
S/o K.N.V.Srinivasalu,  
aged about 43 years,

R/at. Chikkabasavadi Main Road,  
MBR Layout, 2<sup>nd</sup> Cross, Bengaluru -48.

41. Smt K.Sunitha Rao  
W/o K.N.Devarao  
aged about 39 years,  
R/at. No.530, 91<sup>st</sup> Cross,  
Kumaraswamy Layout,  
Bengaluru -78.
42. Sri Bylappa  
S/o late Hanumantha,  
aged about 72 years,
43. Sri Bylahanumaiah  
S/o late Hanumantha,  
aged about 65 years,
44. Sri Ganga Bylappa  
S/o late Hanumantha,  
aged about 62 years,

D42, D43 and D44 are  
R/at.Kuduregere,  
Dasanapura Hobli,  
Bengaluru North Taluk,  
Bengaluru.

**PARTIES TO I.A.NO.XLIII**

**APPLICANT/S:** Sri Bylahanumaiah & Others

**..... Plaintiffs**

**-V/s-**

**RESPONDENT/S :** Sri Shivalingappa & Others

**..... Defendants**

**ORDERS ON I.A.NO.XLIII UNDER ORDER VI RULE 17 OF**  
**CPC**

The present application is for amendment of plaint and none of the defendants have resisted the application. The defendant No.23 to 28 has filed a memo to effect that K.U.Gurupadegowda is dead and his name is sought to be impleaded through this amendment application.

2. The amendment sought by the plaintiffs is extracted hereunder;

*" Add in the cause title defendant No.45, R/at. K.U.Gurupadegowda S/o Uddanaiah, aged about 55 years R/at. No.22, Bhuvaneshwari Nagara, T.Dasarahalli Post, Bengaluru North Taluk.*

*Plaint Para 1 mention as defendant address in the cause title to issue notice etc.,*

*After the word family tree of add as Yedagi Byla.*

*In para 3 plaintiff after add as yedagi behind name Byla in line 8 after the date:23.10.1933 set aside as null and void.*

*In para 9 page 3 line 10 corrections as Lakshmamma in place of Lakshmammana in line 13 dated:24.01.1972 Register No.2907/71-72 add as set aside as null and void.*

*In para 14 line 4 Register No.1764/1964/96-97 dated mention date:07.08.2007 as null and void.*

*General Power of Attorney dated:06.02.1995 book 4, 96 to 99 Register No.248829 as null and void and not binding through General Power of*

*Attorney holder subsequently purchased by defendant No.19 to 44.*

*Already defendant No.26, 27, 29, 30, 31 and 41 filed OS.No.201 to 206/2009 there Register Document fraudulently created without proper title and without verifying prior title.*

**PRAYER**

*In prayer (a) Add after date:23.10.1933 set aside as null and void Register Sub-Registrar Office at Nelamangala.*

*(b) Line 5 after date:24.01.1972 add as set aside as null and void Sub-Registrar office at Nelamangala.*

*Line 7 after Sale Deed add as dated:07.08.2007 set aside as null and void.*

*General Power of Attorney Register No.2488 dated:06.02.1995 set aside as null and void and not binding on plaintiffs. Registered in Sub-Registrar Office, Bengaluru North Taluk, the subsequent transaction of Sale Deed also invalid in the name of defendant No.19 to 44.*

3. I have heard the counsel for the both parties.

4. The short point that arise for consideration;

**"Is the amendment sought is necessary for the adjudication of the dispute"?**

And my answer is **Partly in the Affirmative** and for the following assigned;

### **REASONS**

5. On a plain reading of the proposed amendment, it appears to me that the plaintiff intends to amend the plaint to the effect that the Sale Deeds as null and void and also some corrections with respect to the names are sought. I have perused the order sheet so as to ascertain the stage of the case. This is a matter of 2009. However still the trial has not begun. Hence, the main limb of order VI Rule 17 applies to the case on hand.

6. In *Revajitu Builders & Developers V/s V.Narayana Swamy & Sons, reported in (2009)10 SCC 84*, the Honble Apex court has laid down the scope of the amendment of the pleadings and also the basic principles that emerge while allowing or rejecting the application for amendment. I have perused the proposed amendment in juxta position with the principles laid down the above dictum. Notably the trial has and not began. When the proposed amendment is given a careful reading, it appears to me that the plaintiff, in addition to his relief of redemption of mortgage has sought these reliefs which are necessary for the full and final adjudication of the dispute. The amendment sought in to the body of the plaint as well as in the prayer column reflects that the said amendments are necessary for the proper adjudication of the dispute.

7. However, it needs to be noted that the plaintiff has sought for impleading an additional defendant No.45 as K.U.Gurupadegowda. As per the memo of the defendant No.23 to 28, the counsel for the plaintiff has written a shara that Gurupadegowda died. This inclines me towards the rejection of that part of the proposed amendment. Viewed from another angle, the Code of civil procedure provides for impleadment of the parties with specific provision. Hence, in view of the memo and also the provisions of the law, I find that the below mentioned portion of the proposed amendment needs to be rejected.

"Defendant No.45, Sri K.U.Gurupadegowda  
S/o Uddanaiah, aged about 55 years, R/at.  
No.22, Bhuvaneshwari Nagara, T.Dasarahalli  
Post, Bengaluru North Taluk."

8. Further , it appears to me that refusing the amendment would in fact lead to multiple litigation and also that the amendment does not change constitutionally or fundamentally the nature and character of the case. The relief of setting aside the Sale Deeds dated:23.10.1933, 24,01,1972, 07.08.2007 and General Power of Attorney dated:.06.02.1995 as null and void is sought. This is a suit of 2009. By the application of law it necessitates that the proposed amendment should be allowed with effect from the date of the filing of the application not from the date of the filing of the suit as an exception to the doctrine of relation back. Hence in the light of the above discussion, I answer the Point as ***Partly in the AFFIRMATIVE*** and pass the following;

**ORDER**

I.A. No. XLIII under Order VI Rule 17 CPC is partly allowed with costs of Rs. 500/-.

The amendment shall come into effect from the date of the application.

The amendment sought to add K.U.Gurupadegowda as defendant No.45 is rejected.

(Directly dictated to the stenographer through computer, typer by her, corrected and signed by me and then pronounced in the open court on this the 16<sup>th</sup> day of February, 2021)

**(Namrata Rao.K.S.,)**  
Prl. Civil Judge & J.M.F.C.,  
Nelamangala.

**ORDER**

***(Orders Pronounced in the open court)***

I.A. No. XLIII under Order VI Rule 17 CPC is partly allowed with costs of Rs. 500/-.

The amendment shall come into effect from the date of the application.

*The amendment sought to add K.U.Gurupadegowda as defendant No.45 is rejected.*

***(vide separate Order)***

**Prl. Civil Judge & J.M.F.C,  
Nelamangala.**