

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 2nd day of March, 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, 1st Cross,
Opp: Tavarekere Primary School,
Hosur Road, Bengaluru – 81.
18. Sri S.R.Ramakumar

S/o S.R.Ramaiah,
R/at. No.49, 1st Cross,
Opp: Tavarekere Primary School,
Hosur Road, Bengaluru – 81.

19. Sri B.M.Shivamurthy
S/o B.R.Mallesappa,
R/at. No.894, 7th '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. Kadiranahalli Laxmipura Post,
Dasanapura Hobli,
Bengaluru North Taluk.

33. Smt T.Prema
W/o K.R.Narayanaswamy,
aged about 26 years,
R/at. Kadiranahalli 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, 18th 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, 7th 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, 2nd Cross, Bengaluru -48.
41. Smt K.Sunitha Rao
W/o K.N.Devarao
aged about 39 years,
R/at. No.530, 91st 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.XXXVIII

APPLICANT/S: Sri Bylahanumaiah & Others

..... Plaintiffs

-V/s-

RESPONDENT/S : Sri Shivalingappa & Others

..... Defendants

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

The present application is for amendment of the plaint and none of the defendants have resisted the application.

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

1. *In the cause title delete the defendant No.7 named Puttamma.*
2. *In cause title defendant No.16 M.Kumar and defendant No.18 M.Manjunatha delete in the cause title.*
3. *Add in the cause title as defendant No.48
Smt Kamalamma W/o late K.U.Gurupade
Gowda, No.62, MHR Layout, Siddehalli, 4th
Cross, Chickbanavara Post, Bengaluru –
90.*
4. *Add in the cause title as defendant No.49
Mallikarjuna S/o. 55 years,
Chikkabidarakallu, Dasanapura Hobli,
Bengaluru North Taluk.*
5. *In plaint Para No.1 Family Tree after add
as Yadigai byla.*

6. *In Para No.3 line add as Yadagai Byla.*
7. *In Para No.4 last line after word guntas the register alleged Sale Deed dated:23.10.1933 Reg. No.636/33 at the Sub-Registrar Office, Nelamangala document is null and void.*

In plaint Para No.9 page 14 line 13 after document No.1764/96 mentioned as 07.08.2008 is null and void and the General Power of Attorney dated:06.02.1995 Reg. No.2448/95 Book-4 in the name of late Gurupade Gowda as null and void and also through General Power of Attorney the subsequent purchasers are defendant No.19 to 44 purchased alleged Sale Deed are not binding on the plaintiffs. Those Sale Deeds are created in order to wrongful claim.

IN PRAYER

a) Add after dated:23.10.1933 Reg. No.636/33 at Sub-Registrar Office, Nelamangala document is null and void and Reg. No.2907/71-72 dated:24.01.1972 not binding in its place mention as null and void.

b) The GPA from Lakshmamma W/o Basappa @ Lingappa's sons to gave GPA to Gurupade Gowda dated:16.01.1995 is null and void.

Similarly 07.08.2007 delete are not binding in its place mentioned as null and void.

c) Through GPA the subsequent purchasers defendant No.19 to 44 the above subsequent transaction of the alleged Sale Deeds are invalid and not binding on the plaintiffs.

- 1. Gowramma B.M. W/o Thammaiah.B. Sale Deed dated:16.08.2008 document No.32215/06.*
- 2. S.R.Manjunath S/o Ramaiah, Sale Deed dated:17.06.1995, document No.2853/95.*
- 3. S.R.Ramkumar S/o S.R.Ramaiah.*
- 4. B.M.Shivamurthy S/o Malleshappa.B.R. Sale Deed dated:16.08.2006, document No.32205/06.*
- 5. Ameena Begum W/o Syed Baba Fakruddin. Sale Deed dated:25.03.2006.*
- 6. S.Karunanidhi S/o Somasundaram, Sale Deed dated:25.03.2006.*
- 7. Afisabi @ Naseem W/o Mohammed Narasulla.*

8. *Tangamani S/o Mahalingam Sale Deed dated:12.09.2006 vide document No.37608/06-07 Book-1 CD No.BLND 327 Bengaluru North Taluk.*
9. *Govinda Raju S/o Erithimmaiah Regd. Sale Deed dated:29.03.2005 vide document No.61145/04-05 Book-1 stored in CD.No.BLND 158.*
10. *Leelavathi W/o P.Aswath Sale Deed dated:29.03.2005 document No.61219/2004-05 Book-1 CD No.BLND 158.*
11. *M.V.Krishna Reddy S/o M.R.Vasanthaiah Setty Sale Deed dated:12.06.1996 vide No.8031/95-96 Book-1 Vol.5575.*
12. *M.R.Ramesh Varma S/o late Rangaswamy Sale Deed dated:08.08.1995.*
13. *Smt Vyjayanthimala W/o V.G.Hegde Sale Deed dated:21.03.1995 document No.10061/1994-95, Book-1 Vol. 5304 page 201-206, Bengaluru North Taluk.*
14. *J.R.Venkataswamy S/o late Rangaiah, Regd. Sale Deed dated:30.03.2005 document No.61480/2004-05 CD No.159.*
15. *S.C.Shekar S/o K.N.V. Srinivasalu Sale Deed dated:23.03.2006.*

16. *K.Sunitha Rao W/o late K.N.Deva Rao.*
17. *K.R.Narasimha Raju S/o Ranganarasimhai dated:27.04.2006 Doc No.5765/0607.*
18. *T.Prema W/o K.R.Narayanaswamy Sale Deed dated:27.04.2006 vide 5732/06-07.*
19. *Raghavendra S/o H.Subramanyappa Sale Deed dated:22.03.1995.*
20. *Range Gowda @ Devaraja S/o Shivaram Gowda.*
21. *C.Manikya S/o Chinnappa.*
22. *K.S.Srinivasa S/o K.H.Subramanyappa.*

The above named defendants Sale Deeds are not binding on the plaintiff.

3. I have heard the counsel for the plaintiff.
4. The short point that arise for consideration;

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

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

REASONS

5. It is a trite of law that the amendments which are necessary to determine the real questions in controversy are to be allowed. Even if the objections are not filed by the other party, it is duty of the court, to verify the reasons assigned by the party proposing the amendment. Moreover, the party proposing the amendment should set forth in the affidavit as to why the proposed amendment is necessary and how it facilitates in determining the real questions in controversy. I have perused the affidavit accompanying the application. When the affidavit is read, I do not find a minuscule of reason made out by the plaintiff to grant the relief. For the convenience I extract the affidavit filed by the plaintiff hereunder:

"Bylahanumaiah S/o late Sanjeevaiah, aged about 64 years, R/at. Nagasandra, Dasanapura Hobli, Bengaluru North Taluk, do hereby solemnly affirm and state on oath as follows:-

1. I am the plaintiff in the above case and applicant in the annexed application. I know the facts of the case. Hence, I am swearing to this affidavit on myself and also

on behalf of other plaintiffs as they have authorized me to swear to this affidavit. I state that the contents amendment application Para No.1 to 6 and prayer amendments are all true and correct to the best of my knowledge and belief.

What is stated above is true and correct".

6. When the affidavit is read in juxta position with the amendment sought for absolutely there is no iota of reasons assigned by the plaintiff. Therefore, I am inclined arrived at the conclusion has not shown as to whether the proposed amendment is necessary for adjudication of the dispute.

7. Apart from the above the amendment sought for also includes impleading one Kamalamma, Mallikarjuna as defendant No.48 and 49. Needless to say, quoting of wrong provision is not fatal. However, the plaintiff should have disclosed the reasons as to for what purpose these two defendants are sought to be impleaded.

8. Hence in the light of the above discussion, I answer the Point in the **Negative** and pass the following;

ORDER

I.A. No.XXXVIII under Order VI
Rule 17 CPC is dismissed with costs of
Rs. 200/-.

(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 **2nd** day of **March, 2021**)

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

O R D E R

(Orders Pronounced in the open court)

*I.A. No.XXXVIII under
Order VI Rule 17 CPC is
dismissed with costs of Rs.
200/-.*

(vide separate Order)

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