

KACM200003392012



IN THE COURT OF THE SENIOR CIVIL JUDGE,
AT: KADUR.

Present:- Sri. IRFAN.
B.A., LL.B.,
Senior Civil Judge & JMFC,
Kadur, Chikkamagaluru District.

Dated : This the 1st day of September, 2025.

O.S. No.19/2012

- Plaintiffs :**
1. Sri. K.B. Nageshappa,
S/o Late Bogappa,
Aged about 70 years,
Agriculturist Retd. Teacher,
R/at P. Kodihalli Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru District.
 2. Sri. K.N. Lakshmikanth,
S/o K.B. Nageshappa,
Aged about 49 years,
Agriculturist,
R/at P. Kodihalli Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru District.



(Plaintiff by: Sri. K.N.R., Advocate)

-V/s-

Defendants

:

1. Sri. K.B. Govindappa,
S/o Late Bhogappa, ,
Since dead by his LR's

1(a) Smt. Gowramma,
W/o late K.B. Govindappa,
Aged about 70 years,
House-wife,

1(b) Sri. K.G. Kumar,
S/o late K.B. Govindappa,
Aged about 48 years,
Agriculturist,

1(c) Sri. K.G. Shekar,
S/o late K.B. Govindappa,
Aged about 45 years,
Agriculturist,

Defendants No.1(a) to 1(c) are
R/o P.Kodihalli Village,
Yagati Hobli, Kadur Taluk.

1(d) Smt. K.G. Rathnamma,
D/o late K.B. Govindappa,
W/o Ramesh,
Aged about 56 years,
House-wife,
R/o Opp. BGS College, Kadur Town,
Kadur Taluk,
Chikkamagaluru District.



- 1(e) Smt. K.G. Shivamma,
D/o late K.B. Govindappa,
W/o Manjappa,
Aged about 48 years,
R/o Kelagudu Village,
Hosadurga Taluk,
Chitradurga District.
- 1(f) Smt. K.G. Jyothi,
D/o late K.B. Govindappa,
W/o Ramesh,
Aged about 40 years,
House wife,
R/o Anegere Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru District.
2. Smt. B.N. Sharadamma,
W/o Late K.B. Gangahdarappa,
Aged about 60 years,
House-wife,
3. Sri. K.G. Thippeshappa,
S/o Late K.B. Gangahdarappa,
Aged about 33 years,
Teacher,
4. Sri. K.G. Devaraju,
S/o Late K.B. Gangahdarappa,
Aged about 31 years,
Agriculturist,
5. Sri. K.G. Sathisha,
S/o Late K.B. Gangadharappa,



Aged about 28 years,
Teacher,

6. Sri. K.B. Onkarappa,
S/o Late Bhogappa,
Aged about 60 years,
Agriculturist,
7. Sri. K.B. Kalleshappa,
S/o Late Bhogappa,
Aged about 55 years,
Agriculturist,
8. Sri. K.B. Mahesha,
S/o Late Bhogappa,
Aged about 50 years,
Teacher,

Defendants No.2 to 8 are
R/at P. Kodihalli Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru District.

9. Smt. Lakkamma,
D/o Late Bhogappa,
W/o Halappa,
Aged about 73 years,
House-wife,
R/o Biluvala Village at & Post,
Kasaba Hobli, Kadur Taluk.
10. Smt. Jayamma,
W/o M.V. Puttaswamy,
D/o Late Bhogappa,
Aged about 65 years,



House-wife,
R/o M.G. Dibba Village at & Post,
Hosadurga Taluk,
Chitradurga District.

11. Smt. Bhagyamma, ,
W/o Gundamallaiahana Kumaranna,
Aged about 35 years,
House-wife,
R/o Pura Village, Yagati Post,
Kadur Taluk,
Chikkamagaluru District.
12. Smt. Yashodha,
W/o Late K.N. Bhagappa,
Aged about 35 years,
House-wife,
R/o P. Kodihalli Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru district.
13. Sri. Murthaiah,
S/o Late Shivaiah,
Aged about 58 years,
R/o Mavinahalli Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru District.

(Defendants No.1(a) to 1(f) and 7 by: Sri. K.V.M., Advocate).
(Defendants No.2 to 5 by: Sri. T.H.R., Advocate)

RANK OF THE PARTIES ON I.A.NO.39

Applicant : Sri. K.N. Lakshmikanth.



-V/s-

Opponents /
Defendants : Sri. K.B. Govindappa & others.

i	<i>Provision under which the application is filed</i>	<i>U/O 1 Rule 10 (2) R/w Sec.151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Implead the proposed defendants as additional defendants</i>
iii	<i>The date on which the application is filed</i>	<i>05.02.2025.</i>
iv	<i>Number of the application</i>	<i>39</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>11.02.2025 by the defendants No.2 to 5.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>01.09.2025.</i>

When the case is posted for evidence of plaintiff
on fresh issue, the applicant has filed IA No.39.

RANK OF THE PARTIES ON I.A.NO.44

Applicant : Sri. K.N. Lakshmikanth.

-V/s-

Opponents /
Defendants : Sri. K.B. Govindappa & others.



i	<i>Provision under which the application is filed</i>	<i>U/O VI Rule 17 R/w Sec.151 of CPC.</i>
ii	<i>Relief sought for</i>	<i>Amend the plaint.</i>
iii	<i>The date on which the application is filed</i>	<i>13.08.2025.</i>
iv	<i>Number of the application</i>	<i>44</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>16.08.2025 by the defendants No.2 to 5.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>01.09.2025.</i>

When the case is posted to hear defendants on IA No.39 and for objections to IA No.42, the applicant has filed IA No.44.

COMMON ORDER ON I.A.39 AND 44

The 12th defendant / now transposed as plaintiff has filed these IA's under Order I Rule 10(2) R/w Sec.151 of C.P.C., and also U/O VI Rule 17 R/w Sec.151 of CPC seeking to implead the opponents to IA No.39 as additional defendants and also to incorporate additional pleadings in the plaint, as sought by way of amendment.

2. These applications are supported by separate affidavits filed by the 12th defendant / now



transposed plaintiff. The gist of the application averments is that during the pendency of this suit, appeal proceedings in RA No.15/2015, RA No.18/2015 and RA No.179/2022, the defendants No.2 to 5 have executed sale deed in favour of proposed defendant No.15 on 18.10.2024 with respect to suit schedule item No.30 property, they have executed sale agreement in favour of proposed defendant No.17 on 03.07.2023 with respect to suit schedule item No.47 property, they have executed sale deed in favour of proposed defendant No.18 on 16.10.2019 with respect to suit schedule item No.20 property, they have executed sale deed in favour of proposed defendant No.19 on 03.03.2022, they have executed sale deed in favour of proposed defendant No.20 on 02.07.2022 with respect to suit schedule item No.27 property, and they have also executed sale deed in favour of proposed defendant No.21 on 28.09.2017 with respect to suit schedule item No.35 property. Since the aforesaid sale transactions are taken place during the pendency of litigation, it is sought to implead the opponents to IA No.39 as



proper and necessary parties for the effective adjudication of the suit on hand. It is also sought to incorporate the aforesaid aspects by way of additional pleadings in the plaint and accordingly sought to allow the application for amendment also.

3. The notice of IA No.39 was served upon the proposed defendants and despite of service of notice, none of them have appeared to contest this application.

4. The defendants No.3 to 5 have filed separate objections to IA No.39 and 44 by denying the very right of the applicant / 12th defendant to file IA No.39 and it is contended that the applicant being the 12th defendant cannot maintain IA No.39. There is no mention regarding the exercise of due diligence and the applicant is in the habit of filing frivolous applications in order to prolong the case. The applicant has not made any efforts to amend the plaint at the earlier stage before the commencement of trial and there is no whisper whatsoever regarding the knowledge of the alleged transaction. The proposed amendment will alter the nature of suit and



cause of action. Accordingly, sought to both the applications.

5. Heard on both sides on both IA's.

6. The Points arise for my consideration is as follows;

1. Whether the opponents to IA No.39 are proper and necessary parties for the effective adjudication of the suit?
2. Whether the proposed amendment is necessary for the effective adjudication of real controversy between the parties?
3. What order?

7. My answer on the above points are as follows:-

- | | | |
|------------|---|--|
| Point No.1 | - | In the affirmative; |
| Point No.2 | - | In the affirmative; |
| Point No.3 | - | As per final order for the following:- |



REASONS

8. **Points No.1 & 2:** Both points are taken together for common discussion to avoid repetition of facts.

It is a matter of record that the instant suit is for the relief of declaration, partition and separate possession. This matter went in appeal before the Hon'ble First Appellate Court under RA No.179/2022, wherein, as per the judgment and decree of the Hon'ble Appellate Court dated 10.01.2025, the present suit is restored and proceeded with. After remand, it is also a matter of record that subsequent to filing of IA No.39 by the applicant being the 12th defendant, the application filed by him under Order I Rule 10(6) R/w Sec.151 of CPC, he was ordered to be transposed as 2nd plaintiff as per orders dated 18.02.2025.

9. It is the contention of the applicant / transposed plaintiff No.2 that during the pendency of litigation under this suit i.e., upto the stage of appeals, the defendants No.3 to 5 in collusion with



the proposed defendant have entered into several sale transactions and agreement with respect to the suit schedule item No. 30, 47. 20, 27 and 35 under different sale deeds and agreement as contended in the application and in support of the same, the applicant / transposed 2nd plaintiff also filed photo-stat copies of the sale deeds and agreement. A reference to the recitals made therein, it is apparent that the aforesaid sale transactions and agreement were entered into between the defendants No.2 to 5 and proposed defendants with respect to the aforesaid disputed properties on hand. Since the aforesaid sale transactions are taking place during the continuation of suit proceedings either be in the original side or in the appeal side, the opponents on IA No.39 being the purchasers and agreement holder are found to be proper and necessary parties. No doubt, mere existence of agreement does not confer any right in favour of agreement holder, but since the said transaction is related to disputed property on hand, the presence of agreement holder also put him on caution regarding the suit proceedings. The



application seeking for the insertion of necessary pleadings by way of amendment in the plaint is also found to be essential for the purpose of effective adjudication. Thus, in view of discussions held above, **the points No.1 and 2 under consideration are answered in the affirmative.**

10. Point No.3: In view of the above findings on point No.1, the following;

ORDER

I.A.No.39 filed by the applicant / now transposed as plaintiff No.2, under Order 1 Rule 10(2) R/w Sec.151 of CPC is allowed.

The applicant / now transposed as plaintiff No.2 is permitted to implead the opponents on IA No.39 as additional defendants.

The application for amendment of plaint filed by the applicant / 2nd plaintiff is allowed.



The applicant / 2nd plaintiff is permitted to carry out the necessary amendment in the plaint, as sought for.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 1st day of September, 2025)

Sd/-

(IRFAN)
Senior Civil Judge,
Kadur.