

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND  
PRINCIPAL J.M.F.C., TARIKERE**

**PRESENT : SRI VAIDYA SHREEKANT, *B.Sc, LL.B.***  
***Senior Civil Judge & Prl. J.M.F.C.,  
Tarikere. .***

(Name of the Presiding Judge)

**DATED : THE 3<sup>rd</sup> DAY OF JUNE 2025**

**CC No.50/2016**

**ORDER ON IA-26 FILED UNDER ORDER VI RULE 17**

**R/W SEC.151 OF CPC**

The present application has been filed by the LRs of the plaintiff seeking amendment of the plaint. By way of amendment, they want to amend the survey number of item No.3 property as 47/1 which is now appearing as 47.

2. In the affidavit annexed to the application, the plaintiff No.1(c) stated that in the Will Deed executed by H.M. Chandrashekarappa in favour of defendant No.1, the survey number of property is mentioned as 47 measuring to the extent of 5 Acres 25 Guntas. But in the registered sale deed dated 16.04.2015, the survey number of the property is shown as 47/1. The said property fell to the share of his father in the partition. Subsequently, in the partition held among

H.M. Lingamariayappa and his sons, the said property fell to the share of H.L. Ravi, the deponent herein.

3. The said fact came to his notice only after production of the Will Deed. The defendant No.1 cleverly managed not to file the documents up-to the stage of evidence of defendants. Hence, he constrained to file this application seeking amendment of the survey number described as suit item No.3 property. If application is allowed, no harm or prejudice would cause to other side. If not, he will put to great loss and hardship.

4. The application came to be objected by the defendant No.1. The objection of the defendant No.1 is that the plaintiff adduced his evidence long back and the defendant No.1 also commenced his evidence long ago. When the case was posted for arguments, the present application is filed. No cogent reasons are forthcoming in the application to allow it. The suit was filed long back in the year 2016 and the instant application came to be filed after lapse of 6 years. Hence, application is not maintainable.

5. The property proposed to be amended was subject matter of land tribunal. The deponent herein was represented by his mother was also appeared

before the land tribunal. The land Sy.No.133/2 and land Sy.No.47/1 were the subject matter of LRT No.6/1974-75. It was ordered by the land tribunal that father of the defendant No.1 was tenant of the lands. Hence, application is not maintainable. This court has no jurisdiction to entertain the same.

6. Heard both sides on application.

7. The following points arise for consideration of this Court:

1. Whether the LRs of the plaintiff have made out reasonable grounds to allow the proposed amendment?

2. What order?

8. After hearing both sides and after appreciation of the material on record, this court answers the above points as under;

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

### **REASONS**

9. **POINT No.1:** As discussed above, by way of amendment the LRs of the plaintiff want to describe suit item No.3 as 47/1 instead of 47. Simple amendment is sought by the LRs of the plaintiff. The land Sy.No.47 is clearly described as suit item No.3

with measurement and boundaries. The only thing is that the LRs of the plaintiff intend to give sub number to the land. They never sought inclusion of any property.

10. The main objection of the defendant No.1 is that the present application came to be filed at the fag end of the litigation. Admittedly, the present application was filed at the stage when the matter was posted for arguments. Prior to this, some applications were also filed seeking recall of PW.1 for the purpose of further chief-examination. The said applications were allowed by this court. In fact, when the matter was posted for further chief-examination of PW.1 the instant application has been filed. One thing is clear that the application came to be filed 8 years after filing the suit.

11. At this Juncture, I would like to quote the Judgment reported in **2022 (3) KCCR 2078 (Smt. Sarojamma and Another Vs. A.Y. Anilkumar)**, wherein, it has been held that *the amendments, even after commencement of trial, could be allowed if the amendment is necessary for effective and complete adjudication of real controversy and the other side is not put to injustice.*

12. As discussed above, the proposed amendment will not change the nature of the suit and it will not cause any injustice to the defendants. The proposed amendment appears to be formal in nature. Nothing new would be introduced if application is allowed as discussed above. Under such circumstances, if application is allowed, there would be complete adjudication of the real controversy between the parties as per the ratio laid down in the above referred Judgment. However, the objection of defendant No.1 regarding the delay caused in filing the application may be compensated by imposing reasonable cost on the LRs of the plaintiff. **Accordingly, I answer point No.1 in Affirmative.**

13. **POINT NO.2:** For the reasons and above discussion, I proceed to pass the following:

### **O R D E R**

The application filed by the LRs of the plaintiff under order VI rule 17 R/w Sec.151 of CPC at IA No.26 is hereby allowed on cost of Rs.2000/-.

The LRs of the plaintiff are permitted to carry out amendment of the plaint as prayed in the application.

Sd/-

**SENIOR CIVIL JUDGE & PRL. JMFC.,  
TARIKERE.**

## **ORDER ON IA NO.27**

The present application has been filed by the LRs of the plaintiff under order I Rule 10 of CPC seeking permission to get implead one H.B. Rajappa, H.B. Kanthraj and H.M. Chandrashekar Aradhya as defendant No.10 to 12.

**2. The submission of the LRs of the plaintiff is that,** the defendant No.1 sold suit item No.2 and 3 properties to the proposed defendant No.10 to 12. The land Sy.No.133/2 was sold to defendant No.10 and 11 through registered sale deed dated 29.12.2010 and suit item No.3 was sold to proposed defendant No.12 through registered sale deed dated 16.04.2015. Hence, all the parties referred above are necessary parties to the suit. Hence, this application.

3. The application came to be objected by proposed defendant No.10 to 12. They contended that the suit item No.2 and 3 properties were the joint family properties of one Mallappa. After his death, his 4 sons got divided his properties including suit item No.2 and 3. In the partition, suit item No.2 and 3 fell to the share of Lingamariyappa, the original plaintiff. Subsequently, Lingamariyappa and his children got divided their family properties including item No.2 and 3 through

registered partition deed dated 29.05.1972. In the said partition, suit item No.2 and 3 properties fell to the share of Ravi who was minor represented by his mother at that time.

4. The mother and guardian of Ravi has executed “Geni kararu” in favour of one Chandrashekarappa in respect of suit item No.2 and 3 properties. Subsequently, as per the order of land tribunal, the katha of the said properties were mutated into his name. The mother of plaintiff No.1(c) (Ravi) namely Nagamma has also admitted execution of the “Geni Kararu”

5. During his lifetime, H.M. Chandrashekarappa bequeathed suit item No.2 and 3 properties along with other properties in favour of his son, the defendant No.1 herein through Will Deed dated 25.09.1996. After his death, the properties mutated into the name of the defendant No.1 herein. Subsequently, the defendant No.1 sold suit item No.2 property in favour of defendant No.10 and 11 jointly. He also sold land Sy.No.47/1 i.e., suit item No.3 property in favour of defendant No.12.

6. In fact, the suit item No.2 and 3 properties were mutated in the name of father of defendant No.1 as per the order of land tribunal. Hence, the said properties

are self-acquired properties of father of the defendant No.1. He had every right over the properties to execute Will Deed in favour of his son. The original plaintiff had knowledge about all these transactions from the inception. After lapse of 8 years, the present application came to be filed. Hence, application itself is not maintainable.

7. Heard the arguments on both sides.

8. The following points arise for my consideration:

1. Whether the proposed defendant No.10 to 12 are necessary parties to the suit?
2. What order?

9. My answers to the above points are hereunder:

Point No.1: In the Affirmative

Point No.2: As for the final order  
for the following;

### **REASONS**

10. **POINT No.1:** Admittedly, this suit is filed seeking declaration of title and possession. According to the LRs of plaintiff, the proposed defendant No.10 and 11 are the joint purchasers of suit item No.2 property and the proposed defendant No.12 is the purchaser of suit item No.3 property. The said aspect is not disputed by the proposed defendant No.10 to 12

also. The main objection of the proposed defendant No.10 to 12 is that the father of the defendant No.1 became owner of the suit item No.2 and 3 properties based on the order passed by the land tribunal. Hence, the order of the tribunal cannot be questioned before this court.

11. It is pertinent to note here that the present suit is filed seeking comprehensive relief of declaration of title and possession. If at all, the proposed defendants successful in proving that the father of the defendant No.1 was the tenant and the said lands were granted to him from the land tribunal, then this court would loose very jurisdiction to decide the issue as for as title is concerned. However, the said aspect cannot to ascertained in the absence of proposed defendant No.10 to 12 who are admittedly purchasers of suit item No.2 and 3 properties. Hence, I am of the opinion that the proposed defendant No.10 to 12 are necessary parties to the suit and in their absence, the suit cannot be adjudicated properly.

12. As far as, delay caused in filing the application is concerned, it may be compensated by imposing reasonable cost on the LRs of the plaintiff. In my opinion if application is allowed, it would be helpful to

both the parties to the suit to get settle their dispute once for all. It would definitely avoid another round of litigation between the same parties and avoid the multiplicity of proceedings as well. As discussed above, the proposed defendant No.10 to 12 are also admitting the fact that they are the purchasers of suit item No.2 and 3 properties. Hence, I am of the opinion that the application filed by the LR's of the plaintiff deserves to be allowed. **Accordingly, I answer point No.1 in Affirmative.**

13. **Point No.2:** For the reasons stated above, I proceed to pass the following:

### **ORDER**

The applications filed by the LR's of the plaintiff under Order I Rule 10 of CPC at IA No.27 is hereby allowed on cost of Rs.2000/-.

The LR's of the plaintiff are permitted to implead the proposed defendants as regular defendant No.10 to 12 in the suit.

Both parties to the suit are directed to cooperate with the court for speedy disposal of the suit.

To carryout amendment and to furnish amended plaint.

Call on:

Sd/-  
**SENIOR CIVIL JUDGE & PRL. JMFC.,**  
**TARIKERE.**