

KADG310002892024



**IN THE COURT OF THE SENIOR CIVIL JUDGE
AND JMFC, HARIHAR**

PRESENT: Smt. Padmashri A. Munnoli,
B.A.L, LL.B.
SENIOR CIVIL JUDGE AND JMFC,
HARIHAR

Dated this the 6th day of April, 2026

O.S. No. 86/2014

- Plaintiff / s : 1. H.B. Gangadhar, S/o Murigeppa,
since dead represented by his legal
heirs
- 1a. Smt. Neelamma,
W/o H.B. Gangadhar, Aged about
42 years, Hanagavadi village,
Harihar Taluk.
- 1b. Keerthi H.G.,
S/o H .B .Gangadhar, Aged about
24 Years, Hanagavadi village,
Harihar Taluk.
- 1c. Kiran H.G., S/o H.B. Gangadhar,
Aged about 22 Years, Hanagavadi
village, Harihar Taluk.

(Plaintiffs by Sri. B.M. Siddalingaswamy Advocate)

:: VERSUS ::

- Defendant / s : 1. H. Kenchappa S/o Murigeppa, Aged
about 55 years, R/o Hanagavadi
village, Harihar Taluk, Davangere
District.

2. Mahadevamma,
W/o Basavanyappa Annaplavar
Basavanyappa, S/o Mahadevappa
Annaplavar, R/o Aladakatte
village, Ranebennur taluk, Haveri
District.
3. Rudramma, W/o Halappa Kittad
Halappa, S/o Nagappa Kittad,
R/o Hullatti village, Hirekerur
taluk, Haveri District.
4. Renukamma, W/o Basavarajappa
Matturu, Basavarajappa
S/o Fakeerappa Mattur,
R/o Hullativillage, Hirekerur Taluk,
Haveri District.
5. Yashodha,
W/o Thippanna Chalageri,
Thippanna S/o Revanappa
Chalageri, R/o Hosa Kadlabalu
village, Davangere Taluk and
District.
6. Anasooyamma W/o Kenchappa,
Aged about 48 Years, Hanagavadi
village, Harihar Taluk, Davangere
District.
7. H.K. Umesh, S/o Kenchappa, Aged
about 26 years, Hanagavadi village,
Harihar Taluk, Davangere District.
8. H.K. Jagadeesh, S/o Kenchappa,
Aged about 23 years, Hanagavadi
village, Harihar Taluk, Davangere
District.

9. Lakshminaraya S/o V.N. Puttanna, Kondahalli village, Molakalmuru Taluk, Chitradurga District.
10. V.. Narasimharaju S/o V.N. Puttanna, Kondahalli village, Molakalmuru Taluk, Chitradurga District.
11. V.P. Manjula, W/o D.S. Chowdappa, No. 2417/47, Krishna Nilaya, 10th Cross, A Block, S.S. Layout, Davangere.
12. V.G. Vishwambara S/o B.G. Chandrappa, Doddabati village, Davangere Taluk, Ph: 9731708896
13. Kiran H., S/o Halesh S., No. 1061/2, Kurubarakeri, Davnagere Cell: 9008073441.

(Defendant No.1, 3, 5 to 7 by Sri. B. Halappa, Advocate)
(Defendant No. 10 & 11 by Sri. G. Basavarajappa, Advocate)
(Defendant No.2, 4 by Anand N. Advocate)
(Defendant No.8 and 9 by Balaji Singh, Advocate)
(Defendant No. 13 – Dadapeer K., Advocate)

Parties in IA No. 30

Applicants / : Kiran H.,
Defendant
No.13

:: VERSUS ::

Opponents/ : H.B. Gangadhara dead by LR's
Plaintiffs

ORDER ON I.A.NO. 30 FILED BY DEFENDANTS NO. 13 U/O
6 RULE 17 R/W SEC. 151 OF CPC

The present application is filed by the defendant No.13, who is purchaser of Sy. No. 53/2, measuring 16 guntas, which is item No.1 property of schedule 'B', to amend the written statement filed by him and to contend that defendant No.13 is the absolute owner of the said property. That this is plaintiff and his family members had knowledge about the same. That the description of the said suit property is not correct and that the suit is bad for non-joinder of necessary parties.

2. In the affidavit sworn to in support of IA No.30, defendant No.13 states that he has filed the written statement and at the time of filing of the written statement, certain material contentions were left out. That he is the purchaser of Sy. No. 53/2 measuring 16 gunta under a sale deed dated: 23.02.2022. That it is necessary to amend the written statement and take up the contentions proposed in the amendment application and hence, it is prayed that the application be allowed.

3. In the statement of objections filed to IA No.30, it is contended that the application is not maintainable. That the application is filed at belated stage to manipulate the pleadings, when the matter was posted for evidence. That in the written statement defendant No.13 has contended that he is not a

necessary party to the suit. That now defendant No.13 is contending that the suit is bad for non-joinder of necessary parties only to protract the proceedings. That one V.P. Manjula was never the owner of the said property and hence, it is prayed that the application be dismissed.

4. Heard, perused the material on record.

5. The points that arise for consideration of this court are as follows:

1. Whether defendant No.13 can be permitted to amend the written statement as prayed in IA No. 30?
2. To what order?

6. The findings of this court on the above points are as follows:

Point No.1 In the Affirmative;

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

: R E A S O N S :

7. Point No.1:- IA No.30 is filed by defendant No.13 to amend the written statement and to contend that after the purchase the khata is standing in his name and that he is the absolute owner of the said item No.1 property of suit schedule 'B'. Learned counsel for defendant No.13 would argue that

defendant No.13, has already in the written statement filed contended about the purchase made by him. That the proposed amendment will not change the nature of the suit and hence, he prayed for allowing the application.

8. Learned counsel for plaintiffs would argue that now defendant No.13 cannot file this amendment application. That the application is filed only to protract the proceedings. Hence, it was prayed that the application be dismissed.

9. Perusal of the material on record discloses that the present suit was originally instituted by H.B. Gangadhara for the relief of partition and separate possession. Suit properties are described in schedule 'A' to 'C'. Schedule 'A' and 'B' properties are landed properties. Schedule 'C' properties are, 1) Property No.33 (20) measuring 33 ft. x 18 ft. 2) 322 (9/1) measuring 68 ft. x 32 ft. 3) 583 (81/1) measuring 22.5 x 30 ft. 4) 583/1 (81/1) measuring 22.5 x 30 ft.

10. Plaintiffs aver that one Murigeppa S/o Doddagangappa was the propositus of the family. This Murigeppa and his wife Seetamma are dead. Original plaintiff, defendants 1 to 5 are the children of this Murigeppa. Defendant No.6 to 8 are the wife and sons of defendant No.1. It is averred by the plaintiff that defendants No.2 to 5 are married daughters. That they are made as formal parties to the present suit, as they do not have any interest in the suit properties. That plaintiff left

school at a early age and started to toil in the land. That defendant No.1 used to look after the work of selling the crops. That marriage of defendant No.2 was performed by Murigeppa, when he was in joint with his brothers. That during the year 1986-87 there was a partition between Murigeppa and his brothers. That schedule 'A' land, schedule 'C' item No.1 and 2 house properties were allotted to Murigeppa, further, item No.3 and 4 properties were a single piece in property No.81/1 and 1/5th share in this item No.3 and 4 properties and survey No.29/P measuring 1 acre 31 gunta and a vacant site measuring 36 ft. x 9 ft. were allotted to the said Murigeppa. Therefore, the same are ancestral properties. That five divisions were affected in item No.3 and 4 properties. That the same were allotted by the Government and were standing in the name of defendant No.1 and as the brothers of Murigeppa raised objections, Murigeppa gave his share of 36 ft. x 9 ft. to, two of his brothers and retained the other two shares and took another two shares by given cash and accordingly, item No.3 and 4 properties came to the family of Murigeppa.

11. That later defendant No.1 neglected the plaintiff and accordingly, plaintiff left the house and started eking his livelihood by doing coolie work that plaintiff had demanded his share and defendant No.1 as well as his father had refused to give the share. That during the year of 2013 plaintiff had gone to PACS Society and came to know that defendant No.1 has got

entered the name of his children in respect of schedule 'B' properties illegally and therefore, the present suit.

12. Defendant No.1 denied the plaint averments. It is contended that about 16 years back a oral partition took place between plaintiff and defendant No.1. That in Sy. No. 18/1, plaintiff was allotted 20 guntas and defendant No.1 was allotted 1 acre 6 gunta. It is admitted that the khata of item No.1 and 2 properties of 'C' schedule are standing in the name of Murigeppa. It is contended that item No.3 and 4 properties of 'C' schedule are the self acquired properties of defendant No.1. It is admitted that a oral partition took place between Murigeppa and his brothers on 31.10.1986 and plaint schedule 'A', item No.1 and 2 properties of 'C' schedule and site measuring 36 ft. x 9 ft. and Sy. No. 29/P were allotted to Murigeppa. That item No.3 and 4 properties, were single block with site No.81 and allotted to defendant No.1 on 18.08.1986 by the Government of Karnataka through BDO, Harihar. That Murigeppa nor his brothers, nor the plaintiff has any interest in these two properties.

13. Further it is contended that defendant No.1 left the house during the year 1982, when Murigeppa was still in joint with his brothers. That out of his own earnings purchased schedule 'B' land. As defendant No.1 was living alone site No.81 was allotted to him. That item No.3 and 4 properties of schedule

'C' are his self acquired properties along with schedule 'B' landed property.

14. Initially the suit was instituted only against defendants No.1 to 6 and later defendant No.7 and 8 were impleaded and later plaintiffs by filing IA No. 28 U/O 1 Rule 10(2) of CPC on 07.01.2025, impleaded the present defendant No.13. Defendant NO.13 is the purchaser of item No.1 property of schedule 'B'. In the written statement filed this defendant No.13 at para 17 has contended that he has purchased the said property on 23.02.2022, along with Smt. Drakshayanamma and Kishor. That plaintiffs have no right in this Sy. No. 53/1. That a false suit is filed by the plaintiffs. Now by way of proposed amendment, this defendant No.13 intends to amend the written statement, by contending that he has become the absolute owner of the said property and that the suit is bad for non-joinder of necessary parties. In the written statement filed defendant No.13 has already contended that himself, said Drakshayanamma and Kishor have purchased item No.1 property of schedule 'B'. He also also claimed to be the owner. Therefore, in my opinion the proposed amendment to the written statement will not change the nature of the suit nor it will take away any admissions or the nature of defense. Therefore, in my opinion the application can be allowed. Accordingly, for these reasons I answer **point No.1 in the Affirmative.**

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

:ORDER:

The IA No. 30 filed by defendant No.13 U/o 6 Rule 17 R/w Sec. 151 of CPC is hereby allowed.

The defendant NO.13 is permitted to amend the written statement as prayed in the application.

(Dictated to the Stenographer directly on computer, typed by him corrected by me and then pronounced in the open court on this the 6th day of April, 2026)

(Smt. Padmashri A. Munnoli)
Senior Civil Judge & JMFC,
Harihar