

KAHS610042432013



**IN THE COURT OF II ADDL CIVIL JUDGE AND JMFC AT
CHANNARAYAPATNA,HASSAN**

Presided Over by SUNEETA

**PRESENT:- Smt. SUNEETA ., B.A., LL.B.,
II Addl. Civil Judge &
JMFC, Channarayapatna.**

Dated 2nd day of February 2026

O.S./696/2013

Plaintiff/s : G.G. Shivanna

(By Sri **C.S.D** Adv.,)

V/s

Defendant/s : Srikanta and others

(By Sri. **S.G** Adv.)

I.A.No.6

Applicants: Srikanta and others

(defendants)

V/S

Opponents: G.G. Shivanna

(plaintiff)

ORDER ON I.A.NO.VI FILED BY THE DEFENDANT NO.1
TO 5 U/O VI RULE 17 R/W SECTION 151 OF CPC

The defendant No.1 to 5 have filed this application under Order VI rule 17 r/w section 151 of C.P.C. praying to permit them to amend the written statement as prayed in the application by way of proposed amendment.

Proposed Amendment

e) To incorporate following in the Written Statement at Page No.3, as Para no.8A and 8B after Para No.8 as follows:-

"8ಎ. ವಾದಿಯು ಈ ದಾವೆಯನ್ನು ಪ್ರಸ್ತುತ ರೂಪಾಂತರದಲ್ಲಿ ಹೂಡಿರುವುದು ಕಾನೂನಿನ ರೀತಿಯಲ್ಲಿ ನಿಲತಕ್ಕದ್ದಲ್ಲ ಹಾಗೂ ಈ ಕಾರಣಕ್ಕಾಗಿ ದಾವೆಯು ವಜಾ ಆಗಬೇಕಾಗಿರುತ್ತದೆ. ವಾದಿಯು ದಾವೆಯಲ್ಲಿ ಹೇಳಿರುವಂತೆ ಅವರು ದಾವಾ ಸ್ವತ್ತಿನ ಮಾಲೀಕರು ಹಾಗೂ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿದ್ದಾರೆಂಬ ಅಂಶವು ಸುಳ್ಳಿನಿಂದ ಕೂಡಿರುತ್ತದೆ, ಏಕೆಂದರೆ ಲೇಟ್ ನಂಜೇಗೌಡರು ಬರೆದುಕೊಡಲಾಗಿದೆ ಎಂದು ಹೇಳುವಂತಹ ಕ್ರಯಪತ್ರವು ಕಾನೂನುಬಾಹಿರವಾಗಿರುತ್ತದೆ ಹಾಗೂ ಸದರಿ ಕ್ರಯಪತ್ರವು ಈ ಪ್ರತಿವಾದಿಯರನ್ನು ಯಾವುದೇ ರೀತಿಯಲ್ಲೂ ಬದ್ಧಪಡಿಸುವುದಿಲ್ಲ. ದಾವಾ ಸ್ವತ್ತು 1 ರಿಂದ 5ನೇ ಪ್ರತಿವಾದಿಯರ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಗಳಾಗಿದ್ದು, ಕಾನೂನಿನ ರೀತಿಯಲ್ಲಿ ಲೇಟ್ ನಂಜೇಗೌಡರಿಗೆ ಕ್ರಯಪತ್ರವನ್ನು ಬರೆದುಕೊಡಲು ಅಧಿಕೃತ ಹಕ್ಕು ಇರಲಿಲ್ಲ. 1 ರಿಂದ 5ನೇ ಪ್ರತಿವಾದಿಯರು ಈಗಲೂ ದಾವಾ ಸ್ವತ್ತಿನ ಜಂಟಿ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿದ್ದು, ಸದರಿ ಕಾನೂನು ಬಾಹಿರ ಕ್ರಯಪತ್ರವು 1 ರಿಂದ 5ನೇ ಪ್ರತಿವಾದಿಯರ ಹಕ್ಕು ಮತ್ತು ಸ್ವಾಧೀನವನ್ನು ಬದ್ಧಪಡಿಸುವುದಿಲ್ಲ. ವಾದಿಯು 1 ರಿಂದ

5ನೇ ಪ್ರತಿವಾದಿಯರ ಗಮನಕ್ಕೆ ಬಾರದೆ ಸುಳ್ಳು ಚಕ್ರಬಂದಿಯನ್ನು ನಮೂದಿಸಿಕೊಂಡು ಮಾಡಿಕೊಂಡಿರುವ ಖಾತಾ ಬದಲಾವಣೆಯು ಸಹ ಕಾನೂನು ಬಾಹಿರವಾದದ್ದು ಹಾಗೂ ಖಾತಾ ಬದಲಾವಣೆಯು ವಾದಿಗೆ ಯಾವುದೇ ಕಾನೂನು ರೀತಿಯ ಹಕ್ಕನ್ನು ನೀಡುವುದಿಲ್ಲ.

8ಬಿ. ವಾದಿಯು ಹೂಡಿರುವ ದಾವೆಯು ಕಾಲಮಿತವಾಗಿರುತ್ತದೆ. ಈ ಕಾರಣಗಳಿಗಾಗಿ ಕಾಲ ಪರಿಮಿತಿ ಅಧಿನಿಯಮದ ಅನ್ವಯ, ಈ ದಾವೆಯು ವಜಾ ಆಗಬೇಕಾಗಿರುತ್ತದೆ."

2. The application is supported by the affidavit of the defendant No.1 and in his affidavit, he has stated, the plaintiff has filed this suit for the relief of declaration and injunction with respect to the suit schedule property. Further stated that, this Hon'ble Court was earlier pleased to decree the suit and against which, they had preferred an Appeal before I Addl Senior Civil Judge at Channarayapatna. After contest, the Hon'ble Appellate Court was pleased to allow the appeal by remanding the suit back to this Court by providing an opportunity to the defendants to contest the suit. Further stated that, last week, when he was discussing the case with his counsel, it was noticed that averments regarding point of limitation

and the alleged Registered Sale deed said to have been executed by late Nanjegowda is barred by law, have not been mentioned in the written statement by oversight. Due to lack of knowledge, he could not mention the same in the written statement and the said aspect came to his knowledge only when he appointed the advocate who is on record. The proposed amendment will not change the defense or nature of the suit. The same will not make out a new case, moreover no prejudice will be caused to the other side if the application is allowed. Hence prayed to allow the application.

3. The application came to be objected by the plaintiff on the ground of delay. It is contended that already the trial has commenced and at this belated stage, the application is unsustainable. The plaintiff has denied the grounds urged by defendants in their application and prayed for rejecting the same.

4. Heard both sides and perused the materials on record.

5. Now, the following points arise for my consideration:

1. Whether the defendants have made out sufficient ground to allow the I.A NO.6 ?

2. What order?

6. My answers on above points are as follows:-

Point No.1 : In the Affirmative,

**Point No.2 : As per the order below
for the following.**

:: REASONS :

7. **POINT No.1 :-** It is the case of defendant No.5 that, Due to lack of knowledge, he could not mention the same in the written statement and the said aspect came to his knowledge only when he appointed the advocate who is on record. Accordingly he prayed for allowing the application and sought permission to add the said pleading in

his written statement. It is objected by the learned counsel for the plaintiff contending that there is no bonafides on the part of defendants and at this belated stage after commencement of trial, the present application is not sustainable.

8. I have gone through the entire records. Admittedly, the plaintiffs has filed present suit against the defendants for declaration and permanent injunction. The plaintiff raised objections contending that amendment of the written statement to include a plea of limitation, after several years, is not permissible. It is to be note here that, mere amendment of the written statement will not cause any hardship to the plaintiff. The burden of proving the plea of limitation lies upon the defendants. Even though the trial has commenced, it is settled proposition of law that amendment in written statement is required to be considered liberally. The provisions of Code of Civil Procedure are procedural in nature and the same cannot be permitted to override the substantive right of

the parties. Keeping the above said aspect in mind and considering the stage of the suit, Court is of the opinion that no prejudice will be caused to the plaintiff if the application is allowed and the defendants are permitted to carry out the amendment. On the other hand, the rejection of the application would amount to denial of opportunity to defendants. Further, allowing of application by imposing reasonable cost would meet the ends of justice. **Hence, Court answered to the point No.1 Affirmative.**

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

ORDER

I.A.No.6 filed by defendant No. 1 to 5 under Or. VI Rule 17 r/w Sec. 151 of CPC is allowed on payment of cost of Rs. 500/-.

The defendant No.1 to 5 permitted to carry out the amendment in their written statement as sought in the application.

**For carrying out amendment and amended
written statement.**

(Dictated to the stenographer directly on computer and typed by her, corrected, signed and then pronounced by me in open court on **2nd day of February 2026**)

(Suneeta)
2nd Addl. Civil Judge and J.M.F.C.
Channarayapatna.