

KAMS300014142016



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND J.M.F.C AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Prl. Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 03rd day of February, 2026.

FDP No.16/2016

- Petitioners:
1. Smt.Lakshamma,W/o Nanjashetty,
Aged about 59 years, R/at Kelaganahalli
Doddakoppalu, Ravandur Hobli,
Periyapatna Taluk. **Dead by Lrs.**
 - 1(a). Smt.Mahadevamma, W/o Late Sheshishetty,
Aged 40 years,
 - 1(b). Sri.Raja.K.S., W/o Late Sheshishetty,
Aged about 30 years,
 - 1(c). Sri.Pavi Raj, S/o Late Sheshishetty,
Aged about 28 years,
Petitioners No.1(a) to 1(c) are residing at
Ravandur Village and Hobli, Periyapatna Taluk.
 - 1(d). Smt.Roja, W/o Mahesh, Aged about 26 years,
R/at Hallimysore Village and Hobli,
Holenarasipura Taluk, Hassan District.
 - 1(e). Sri.Ravi, S/o Late Nanjahetty,
S/o Late Nanjahetty,
Aged about 52 years,
R/at Chilkunda Village, Hunsur Taluk.
 - 1(f). Sri.Suresha.R.J., S/o Late Javarashetty,
Aged about 59 years,
 - 1(h). Smt.Sindhu, W/o Harishetty,
Aged about 30 years, R/at Malanayakanahalli
Village, Mirle Hobli, Hunsur Taluk.

- 1(i). Smt.Bindu, W/o Sheshikumar.G.L.,
Aged about 28 years, R/at Doddaganni
Village and Kasaba Hobli, Channarayapatna
Taluk, Hassan District.
- 1(j). Smt.Indumani, W/o Manu.B.S.,
Aged about 26 years, R/at Bherya Village,
Hosaagrahara Hobli, K.R.Nagar Taluk.
2. Sri.A.M.Mani, S/o Late Muthu Shetty,
Aged about 54 years, R/at Chilkunda village,
Hanagodu Hobli, Hunsur Taluk.
3. Sri.Harisha, S/o Venkatesha, Aged about 33 years,
R/at Chilkunda village, Hanagodu Hobli,
Hunsur Taluk.

-Vs-

Respondent: Sri.A.M.Raju, S/o Late A.M.Muthushetty,
Aged about 69 years, Retired court employee,
R/at Kamala Nivas, Block No.VIII,
Kaveri Layout, Madikeri, Coorg District.

ORDERS PASSED ON MEMO DATED 02.09.2025.

The learned counsel for the respondent filed the present memo stating that, earlier in the preliminary decree there is some mistakes crept and when the respondent came to know about the same he had filed application to rectify the preliminary decree and as per the orders passed by this court the preliminary decree has been modified and the certified copy of the same is produced along with the memo and the petitioners have not included all the properties shown in the preliminary decree and it is very much necessary to direct the petitioners to incorporate all the properties described in the preliminary decree in this petition. Hence, prayed to direct the petitioners regarding the same.

2. On the other-hand the learned counsel for the petitioners filed objection to the memo contending that, the memo is not maintainable under law or on facts and there is no provision under law to direct the petitioners to rectify the petition. It is also stated that the respondent is seeking the direction from this court to amend the petition and it is not at all tenable by filing a memo. Hence, prayed to dismiss the memo with costs.

3. Thereafter, heard arguments addressed by learned counsels for the petitioners and the respondent and perused the case and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the respondent has made out sufficient grounds to direct the petitioners to amend the petition?
2. What order?
4. The findings on the above points are as hereunder:

Point No.1: In the Negative

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

REASONS

5. **Point No.1:** This is the petition filed by the petitioners seeking to pass final decree in terms of the preliminary decree passed by this court in OS No.183/2007. The respondent herein is the defendant in OS No.183/2007. The entire records in OS No.183/2007 is also available and as per the said records, the petitioners herein have filed the suit against the respondent for the relief of partition and separate

possession of their legitimate share. The subject matter of the suit is only one property. Upon appearance the defendant filed the written-statement and sought for counter claim in respect of the written-statement property. The suit came to be decreed and it was held that the plaintiffs as well as the defendant are entitled for 1/4th share in the suit schedule property and the counter claim of the defendant has been allowed in part holding that, the plaintiffs and the defendant has each entitled for 1/4th share each in the “A” schedule property mentioned in the written-statement and also held that the defendant is entitled for Rs.6,670/- standing in the SB Account No.1342500100226801. The petitioners have filed the petition only in respect of the plaint schedule property and they have not included the written-statement statement schedule “A” property.

6. Already the commissioner report in respect of plaint schedule property has been received by this court when the case was posted for orders on commissioner report the respondent came up with this memo to direct the respondent to incorporate all the properties in the petition. In support of the memo the respondent produced the certified copy of the modified preliminary decree dated 16.01.2025 in OS No.183/2007. Admittedly, by modification as per the orders dated 16.01.2025 passed by this court in this final decree proceedings schedule ‘A’ to ‘C’ have been incorporated in the preliminary decree.

7. Admittedly, the preliminary decree came to be modified. Now the respondent by filing this memo wants this court to direct the petitioners to incorporate the properties described in the preliminary decree. Admittedly, there is no provision under CPC to direct the petitioners to make some amendments in the petition. The respondent is not entitled for an order from this court directing the petitioners to amend the petition. The respondent is bound to follow the provisions of law as enumerated under Civil Procedure Code. Filing a memo to a specific relief is unknown under CPC. As such the respondent has not made out any grounds to direct the petitioners to get amend their petition. Accordingly, Point No.1 is answered Negative.

8. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass the following:

ORDER

The memo filed by the respondent dated
02.09.2025 is hereby rejected with costs of
Rs.150/-.

(Dictated to the Stenographer, transcribed and computerized by her on the computer, transcript corrected and pronounced by me in the open court on this the 03rd day of February, 2026.)

(Anitha)
Prl. Senior Civil Judge and JMFC.,
Hunsur.