

KAMS500002192014



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Present : **Sri. Kamalaksha D., B.A., LL.B.,**
Senior Civil Judge & J.M.F.C.,
Nanjangud.

Dated this the 8th day of June 2026

O.S./26/2014

Plaintiffs:

1. J.Shashirekha
D/o late Puttamadaiah @ John,
W/o K.Puttaswamy,
aged about 56 years,
residing at No.7329,
1st Main, Thomas Layout,
Behind Housing Board Colony,
Nanjangud Town,
Mysuru District.
2. J.Shyla D/o late Puttamadaiah
@ John,
W/o late Chennakeshava,
aged about 46 years,
residing at No.3719,
Ground Floor,
Dr.Ambedkar Road,
Srirampura Main Road,
Nanjangud Town,
Mysuru District.

-V/s-**Defendants:**

1. J.Suresh S/o late Puttamadaiah @ John,
aged about 54 years,
Door No.3718,
Dr.Ambedkar Road,
Srirampura Main Road,
Nanjangud Town,
Mysuru District.
2. Dr.Vishwanath,
S/o late Puttamadaiah @ John,
aged about 50 years,
Siddamma Javaraiah Complex,
Government Hospital Road,
Nanjangud Town,
Mysuru District.
3. Ravikumar
S/o late Puttamadaiah @ John,
aged about 49 years,
Door No.3719,
Dr.Ambedkar Road,
Srirampura Main Road,
Nanjangud Town,
Mysuru District. - since deceased by
L.Rs.
- 3(a) Usha M. W/o late Ravikumar,
aged about 45 years,
residing at No.3719,
Dr.Ambedkar Road,
Sreekantapuri Badavane,
Nanjangud Town,
Mysuru District.

- 3(b) Kumari Harini R.
D/o late Ravikumar,
aged about 16 years,
residing at No.3719,
Dr.Ambedkar Road,
Sreekantapuri Badavane,
Nanjangud Town,
Mysuru District.
- 3(c) Kumari Harshini R.,
aged about 14 years,
residing at No.3719,
Dr.Ambedkar Road,
Sreekantapuri Badavane,
Nanjangud Town,
Mysuru District.
4. N.C.Venkatesh S/o Cheluvaiah,
aged about 53 years,
residing at Srirampura
2nd Cross, 2nd Main,
Nanjangud Town,
Mysuru District.
5. N.C.Narasimha Murthy
S/o Cheluvaiah,
aged about 52 years,
residing at Srirampura
2nd Cross, 2nd Main,
Nanjangud Town,
Mysuru District.
6. P.Shobha D/o late Puttamadaiah @
John,
W/o Jaypal Bharni,
aged about 38 years,
residing at 60/1,
9th 'C' Main Road,

Hosahalli,
Vijayanagar,
Bengaluru-40.

I.A. LIII

Applicants : N.C.Venkatesh
N.C.Narasimhamurthy
... defendants No.4 & 5
(By Sri. N.S.B., Adv.)
-V/s-

Opponents: J.Shashirekha and others
Plaintiffs
(By Sri. A.M.R., Adv.)

ORDER ON I.A.LIII

The defendants No.4 and 5 filed the said application under Order VI Rule 17 of C.P.C. to amend the written statement to add para No.11(c), (d), (e), (f) after para No.11(b) as stated in the application.

2. The applicant/ defendant No.4 sworn in the affidavit that the defendants intend to amend the written statement, because the new facts required to be added in the written statement by way of amendment and those facts were not included in the written statement, because

there are other legal proceedings were going on, on that particular time and the said proceedings were not concluded. Now the proceedings are reached its finality and those facts are to be pleaded in the written statement. In that relation the defendants have recently obtained documents and those documents are marked at the time of evidence. Suppose the proposed facts are not included in the written statement, the said omission will give incomplete pleadings. Hence, the defendants pray to amend the written statement.

3. The defendant No.6 filed objections saying that the point raised in the proposed amendment is an arguable point and the counsel for the defendants No.4 and 5 is at liberty to comment on the document and its marking at the time of arguments on merits. The defendant is not a party to O.S.81/2006 and hence any proceedings is taken in connection with that suit is not binding on the defendant. The suit in O.S.81/2006 without impleading this defendant who is a necessary party is void abnatio. Hence, the

proposed amendment is not definitely required. Hence, prays to reject the application.

4. The plaintiffs' counsel also filed lengthy objections, it is not proper to consider all detailed objections. However, the gist of the objection that the evidence of both sides was recorded and the argument of the plaintiffs' side was fully heard. Then the defendants filed I.A.LI which came to be dismissed by this court. Subsequently the Hon'ble High Court of Karnataka permitted the defendants to get mark some documents. The defendants were permitted to produce the documents as per the order of the Hon'ble High Court of Karnataka. Now also the defendants are not ready to conclude the matter, they are frequently filing numerous applications. I.A.LIII is also one of its example. It is further objected by the plaintiffs that the proposed amendment would have been introduced and carried out at earlier stage. So, the gist of the objection of the plaintiffs that the application has to be dismissed.

5. Heard both sides. The points that arise for the consideration of this court are:

1. Whether the applicants/defendants No.4 and 5 prove the requirement of the amendment of written statement at this juncture?

2. What order ?

6. The above points are answered as follows :-

Point No.1 : In the negative

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

REASONS

7. **Point No.1:-** At the outset, I would like to say that the partition suit was filed in the year of 2014 and already 10 years lapsed to conclude the trial. Fortunately the learned counsel for the plaintiffs addressed his arguments, then the matter was scheduled for arguments by defendants No.4 and 5. But the learned counsel for the said defendants for I.A.LI seeking permission of the court to produce the documents, but that application was rejected, then the Hon'ble High Court of Karnataka in its

order permitted the defendants to get mark the documents. That opportunity was also complied with. Now the defendants No.4 and 5 are not satisfied with their evidence and pleadings. So, the defendants desired to carry out the proposed amendment. As rightly submitted by the counsel for defendant No.6, the present defendants were not the parties in O.S.81/2006. The proposed amendment could have been introduced at the early point of time. It shows that the defendants No.4 and 5 going to amend the written statement by looking into the progress of the matter, such amendment shall not be permitted. Strictly the amendment cannot be permitted after commencement of the evidence.

8. The learned counsel for the plaintiffs relies many decisions of the Hon'ble Supreme Court as well as Hon'ble High Court of Karnataka to concrete his contentions. The Hon'ble Supreme Court in the case of **Vidyabai and others Vs. Padmalatha and another** reported in **AIR 2009 Supreme Court 1433** has held that, "*Amendment of*

pleadings – Bar after trial has commenced – Trial commences on date issues were framed – Amendment of W.S. sought after plaintiff has filed affidavit in lieu of examination-in-chief – Grant of leave by High Court to amend W.S. - Liable to be set aside – Moreover Trial Court’s order refusing amendment neither suffered from jurisdictional error nor any error of law.” So, the Hon'ble Supreme Court in the above referred matter categorically held that amendment of written statement cannot be permitted after commencement of plaintiff's evidence. The Hon'ble High Court of Karnataka in **W.P.2701/2021** decided in the case of **Sri. Guru Reddy @ S.N.Raju Vs. Smt.Gayathri** has discussed that, the proposed amendment of written statement has filed after end of evidence and the material shows that the fact of the proposed amendment were in the knowledge of the defendant long back. The said principle of law discussed by the Hon'ble High Court of Karnataka is very much applicable because in the present matter also the material shows that contested defendants No.4 and 5 have the

knowledge of fact of proposed amendment long back. However, they waited upto end of the trial and have come up with the application. These types of attempts to delay the proceedings shall not be permitted. Suppose the proposed amendment to the written statement is very much cardinal, the defendants would have taken those steps at the earliest stage. The reasons given by the defendants No.4 and 5 for amendment of written statement at this stage are not acceptable. Therefore, **point No.1** is answered **in the negative**.

9. **Point No.2:-** In view of the findings on the above point, this Court proceeds to pass the following:

ORDER

I.A.LIII filed by the applicants/ defendants
No.4 and 5 under Order VI Rule 17 of C.P.C., is
rejected. No order as to cost.

(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 8th day of June 2026).

(Kamalaksha D.)
Senior Civil Judge & J.M.F.C.,
Nanjangud.