

KAUK020019002023



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC, KARWAR, UTTARA KANNADA**

Dated this the 15th Day of October, 2025

**PRESENT : SRI. GANESHA PADIYAR U.,
B.Com. LL.B.
Addl. Senior Civil Judge & JMFC.,
Karwar.**

O.S.No.40/2023

- Plaintiffs :**
1. Shri Uday Dinkar Desai,
LR of Late Sushila Dinkar Desai alic
Sushila Koyar Rane,
Aged 59 yrs, Retd. Pvt. Service,
Residing at 3/401, Purnima Co-Op.
Hsg. Society, Near PMC Bank,
Tagore Nagar, Vikhroli – East,
Mumbai – 400 083,
Maharashtra State.
 2. Mr. Vimal W/o Tukaram Phal,
Aged 79 yrs,
12, Kalabushan CHS,
Madhusudhan Kalekar Marg,
Gandhi Nagar, Bandra East,
Mumbai – 400 051,
Maharashtra State.

3. Mr. Deepa W/o Dinkar Salunke,
Aged 72 yrs,
303, Kulaswamini Society,
Mahatma Phule Road,
Near Two Water Tank, Bhoirwadi,
Dombiwali – West, Kalyan Thane Dist.,
Maharashtra State, Pin Code 421 202.
4. Mrs Reshma W/o Balkrishna Naik,
Aged 74 yrs,
Building No.41, Room No.1453,
Pokhran Road No.1,
Near Saibaba Mandir, Vartak Nagar,
Thane – 400 606, Jekegram,
Maharashtra State.
5. Mrs Sandhya W/o Suresh Naik,
Aged 63 yrs,
C-104, Niranjan Apartment, CHS,
Hiranagar, Link Road, VTC,
Mulund – West, Mumbai – 400 080,
Maharashtra State.
6. Mrs. Sheetal W/o Pandurang Naik,
Age Major,
C/c P.G. Naik, Mahamy Temple Road,
Sadashivgad, Karwar – 581 352,
Uttar Kannada, Karnataka State.

(By Sri. Vijay A. Gaonkar Advocate)

- Vs -

- Defendants :**
1. Mr. Sadashiv Koyar Rane,
Age Major,
Akansha, CHS, 3rd Floor,
Flat No.34, B Wing, Dattapada,
Near J.B. Khot High School,
Rajendra Nagar, Borivali – East,
Mumbai – 400 066.

2. Mr. Mohan Koyar Rane, Age Major,
Vatsalya Enclave, A Wing, 4th Floor,
Konkanwada, Mahamaya Temple Road,
P.O. Sadashivgad, Karwar – 581 352,
Uttar Kannada Dist. Karnataka State.
3. Ashok Koyar Rane, Age Major,
Konkanwada, Mahamaya Temple Road,
P.O Sadashivgad, Karwar – 581 352,
Uttar Kannada Dist., Karnataka State.
4. Suhas S/o Sadashiv Rane, Age Major,
Akansha, CHS, 3rd Floor,
Flat No.34, Dattapada,
Near J.B. Khot High School,
Rajendra Nagar, Borivali – East,
Mumbai – 400 066.
5. Ms. Ulka Sanjay Gaonkar,
Aged 56 yrs,
A 1502, Hill Garage,
CHS Hirnandani Estate
Pattipada, G.B. Road,
Thane West – 400 607,
Maharashtra State.

(D.1 & 4 by Sri. J.P. Naik Advocate)
(D.2 & 3 by Sri. K.R. Desai Advocate)
(D.5 by Sri. S.S. Hegde Advocate)

IN IA NO.7

Applicants:
Plaintiffs

Shri Uday Dinakar Desai and Others

- Vs -

Opponents:
Defendants

Mr. Sadashiv Koyar Rane
and Others

**Details indicated vide Circular No.RJ.No.163/2023 dated
24-08-2023 by Hon'ble High Court of Karnataka**

<i>i</i>	Provision under which the application is filed	Section 151 CPC
<i>ii</i>	Relief sought for	To permit the plaintiffs to file individual plaint verification affidavit
<i>iii</i>	The date on which the application is filed	15-07-2025
<i>iv</i>	Number of the application	IA.No.7
<i>v</i>	The date on which the objections are filed by different opponents	05-08-2025
<i>vi</i>	The date on which the orders were passed on the said application	15-10-2025

ORDER

Plaintiffs have filed this interlocutory application under Section 151 CPC praying the Court to permit them to submit their individual affidavit regarding verification of plaint to rectify the defect.

2. The above application is accompanied by the affidavit of plaintiff No.6 stating that the defendants have raised objections in their additional written statement filed on 17-02-2025 stating the contents of the plaint are not verified by all the plaintiffs. She has verified the same by herself and also on behalf of other plaintiffs. Hence plaintiffs No.2 to 6 may be permitted to correct the verification by

submitting their individual affidavit. Hence it is prayed to allow the application.

3. To the above application, the defendants No.2 and 3 have filed objections contending that the application is contrary to law and true facts of the case. It is contended that the plaint presented is against the mandatory provisions of Order VI Rule 15, Section 26 and Order VII Rule 1 CPC as the same is not supported by verification etc. The verification of plaint claimed by the plaintiffs No.2 to 6 in the form of verification carried out in the plaint as verification of plaintiffs No.2 to 6 reflect different dates to different plaintiffs and the place of verification shown as at Mumbai, but the place of presentation of plaint is shown as presented at Karwar. Therefore the verification of plaint is defective. On the fact of it, filing of memo with separate affidavits of plaintiffs No.2 to 6 is unknown to law and futile exercise made by the plaintiffs presuming that the defect stands cured automatically. It is further contended that all the affidavits of plaintiffs No.2 to 5 enclosed with the memo are signed before notaries on 19-06-2025 sworn at Mumbai and affidavit of plaintiff No.6 dated 27-06-2025 sworn at Karwar and the affidavits of plaintiffs No.2 to 5 are not at all identified before notary and thus defective and the same cannot relate back to the date of presentation of the plaint.

With these, the above defendants have sought for dismissal of the application with costs.

4. I have heard the arguments of both sides and perused the application and entire materials on record.

5. The only point that arises for Court's consideration is:

“Is there any necessity to permit the plaintiffs No.2 to 6 to file their individual affidavits in support of their pleadings?”

6. My answer to the above point for consideration is in the '**Negative**' for the following :

REASONS

7. The candid point involved in this application is with regard to an application filed by the plaintiffs under Section 151 CPC seeking permission to file separate affidavit in support of the verification of plaint, in order to cure the defect.

8. The defendants No.2 and 3 have seriously opposed the present application contending that the defect cannot be permitted to be cured as prayed in the present application.

9. In support of their objection, the learned counsel for the defendants No.2 and 3 has relied upon the following decisions:

- (a) AIR 2000 SC 388
R.P. Moidutty Vs. P.T. Kunju Mohammed and Another
- (b) ILR 2005 KAR 884
T.L. Nagendra Babu Vs. Manohar Rao Pawar

10. I would advert on the applicability of the aforementioned decisions at a later point of my discussion.

11. At this juncture, it is useful to refer Order VI Rule 15 CPC which deals with verification of pleadings. It reads as follows:

“Order VI Rule 15: Verification of pleadings.—(1) Save as otherwise provided by any law for the time being in force, every pleading shall be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

(4) The person verifying the pleading shall also furnish an affidavit in support of his pleadings further, on amendment of the pleadings, a fresh affidavit has to be filed in consonance thereof.”

12. On reading the above provision, it is clear that the pleadings shall be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case. Further, sub-rule (4) of Rule 15 of Order VI CPC also provides that person verifying the pleading shall also furnish an affidavit in support of his pleadings. Therefore it undoubtedly shows that all the plaintiffs are not required to verify the plaint or to file affidavit in support of their pleadings. Clearly enough, verification of plaint by one of the plaintiffs and filing an affidavit by one of them would be the sufficient compliance of the mandate provided under Order VI Rule 15 CPC. Thus, the rule specifies that it is only the person pleading shall verify and submit an affidavit in support of his pleadings, but not all the plaintiffs, as contended by defendants No.2 and 3.

13. In the decision relied upon by the learned counsel for defendants No.2 and 3 reported in **ILR 2005 KAR 884 – P.L. Nagendra Babu Vs. Monohar Rao Pawar**, our Hon'ble High Court has held that *“pleadings should be verified by the party who is acquainted with the facts of the case and a*

party must also specify the number of paragraphs and his knowledge, information and belief with regard to the paragraph and verification must be signed by the concerned party by mentioning the date and place.”

14. The above decision also makes it clear that verification must be signed by the concerned party and not all the parties.

15. The defendants No.2 and 3 though have placed reliance on the aforesaid judgment of our Hon’ble High Court mentioned supra, the said judgment instead of substantiating the contention raised on behalf of the defendants supports the case of the plaintiffs that there is sufficient compliance in view of the verification of plaint and filing affidavit by the 1st plaintiff.

16. It may not be out of context to mention that the Hon’ble Apex Court in **AIR 2013 SC 1549 – G.M. Siddeshwar Vs. Prasanna Kumar**, held that “requirement of filing of an affidavit of verification of the contents of the plaint is not to be inferred as a part of verification of the pleadings appearing at the end of the plaint. Such affidavit of verification has to be independent of the plaint and a ‘stand alone document’.”

17. Coming to the case on hand, it can be noticed that the defendants in their additional written statement have raised a specific contention that the plaint is not properly verified as required under Order VI Rule 15 CPC. Based on such a contention, this Court has framed an additional issue (Additional Issue No.1) on 20-02-2025 which is pending for consideration.

18. Now it is necessary to examine the plaint presented by the plaintiffs in the case at hand. It can be noticed that the plaint presented was signed by all the plaintiffs and verified by plaintiff No.1. In addition to the same, the plaint is supported by an affidavit sworn to by the 1st plaintiff Shri Uday Dinkar Desai. The contents of his affidavit filed in support of the original plaint is reproduced herebelow for ready reference:

"AFFIDAVITE

I, Uday Dinkar Desai, aged 59 years, Retd. from Pvt. Service residing at Mumbai, Maharashtra, do hereby solemnly swear and affirm that the contents of the Plaint para 1 to 9 are read over by me and same are true and correct to the best of my knowledge and belief and make information gathered by me.

I Uday Dinkar Desai state and solemnly affirm on affidavit that the contents of Plaint para 1 to 9 are true and correct.”

19. A careful perusal of the contents of the affidavit sworn to by the 1st plaintiff as extracted above abundantly makes it clear that the same is in accordance with the provisions of Order VI Rule 15 of CPC. I do not find any defect as pointed out by defendants No.2 and 3. Because the affidavit filed by the 1st plaintiff would not only be in substantial compliance with the requirements of Order VI Rule 15 CPC but would actually be in full compliance thereof. The filing of individual affidavit by plaintiffs No.2 to 6 is not warranted by the aforementioned provision nor is it necessary, especially when the affidavit filed by the 1st plaintiff being appropriately verified can achieve the desired result and the same could not be faulted on any grounds. Therefore, there is no merit in the objection raised by the defendants.

20. Since the 1st plaintiff has verified the plaint and accordingly he has filed his affidavit in support of the plaint stating that he verifies the plaint of his own knowledge and what he verifies upon information received and believed to be true, it cannot be said that the said verification of plaint by the 1st plaintiff is defective as contended by the

defendants No.2 and 3. Furthermore, the contention of the defendants No.2 and 3 that all the plaintiffs should verify and file verification affidavit cannot be countenanced as the same is not mandated under Order VI Rule 15 CPC. Therefore, the contention is sans substance and unsustainable in law. Further, the purported reliance placed on the provisions of Order VI Rule 15 CPC does not help the contention of defendants No.2 and 3. When there is no defect in the verification of plaint in the instant suit, curing the defect does not arise at all. Therefore, this Court is of the considered view that the present application is uncalled for in the circumstances of the present case as narrated above.

21. Yet another decision relied upon by the learned counsel for the defendants No.2 and 3 reported in **AIR 2000 SC 388**, is not applicable to the case on hand. Because in the said case election petition was not verified in compliance with the mandatory requirement of Order VI Rule 15 CPC as it lacked particulars and for want of affidavit in the required form. Therefore the said decision relied upon by the learned counsel could be clearly distinguishable on facts and circumstances of the case. Therefore the said decision is of no avail to the defendants No.2 and 3.

22. Thus, the precedents relied upon by the learned counsel for defendants No.2 and 3 also do not apply to the

facts and circumstances of the case in so far as the 1st plaintiff has duly verified the plaint and filed affidavit in consonance with the provisions of Order VI Rule 15 CPC. Given the above, the objections raised by defendants No.2 and 3 are untenable.

23. Hence, in view of all these, the conclusion is that there is no necessity to file separate affidavits of plaintiffs No.2 to 6 as the verification of plaint by the 1st plaintiff who claims to have knowledge of facts pleaded and verifies the plaint to be true and correct to the best of his knowledge and belief and files an affidavit to that effect specifying by reference to the numbered paragraphs of the plaint. Therefore, in this view of the matter, the present application seeking permission to file separate affidavits of plaintiffs No.2 to 6 to cure the defect is unwarranted and therefore the same is liable to be rejected, but not for the grounds urged in the objection filed by defendants No.2 and 3. Since the application is unnecessary, there cannot be any order for costs. Hence answering the point for consideration in the '**Negative**', I make the following :

ORDER

- i) I.A.No.7 filed by the plaintiffs under Section 151 CPC is **rejected**.

- ii) Since the above application itself is unnecessary, there is no order as to costs.

(Dictated to the Stenographer directly on computer, typed by him, corrected and then initialed by me and pronounced in the Open Court on the 15th day of October, 2025)

(Ganesha Padiyar U)
Addl. Senior Civil Judge,
Karwar