

KAUK510003662023



IN THE COURT OF CIVIL JUDGE & JMFC, HALIYAL
AT: HALIYAL, UTTARA KANNADA

Dated this 24th day of June, 2025

PRESENT

Smt. Geeta. B.A.LL.B (Hon's) LL.M.,
Civil Judge and JMFC, Haliyal

ORIGINAL SUIT NO.33/2023

BETWEEN:

1. Smt. Basavenneva W/o Krishna Dandi,
Age : 68 years, Occ : Agriculture & Housewife,
R/o : Chowkimath Hosur Galli, Haliyal,
Tq: Haliyal, Dist: Uttar Kannada.

.....Plaintiff

(By Sri. S.K.K, Adv.,)

AND:

1. Shri. Parashuram S/o Anant Kaktikar,
Age : 44 years, Occ : Business,
R/o : Om Nagar, 1st Cross, Kalyani Layout
Kashabag, Belagavi,
Tal & Dist : Belagavi and others.

....Defendants

(D-1 to 3 By Sri. S.I.G, Adv.,)

(D-4 By learned AGP)

(D-5 & 6 By Smt. S.R.G, Adv.,)

I.A.No.VI

Applicant/Plaintiff : Smt. Basavenneva W/o Krishna Dandi

-Vs.-

Opponents/defendants: Shri. Parashuram S/o Anant Kaktikar & others.

ORDER ON I.A.NO.VI

The plaintiff filed I.A. No.VI under Order VI Rule 17 R/w Section 151 of C.P.C praying to permit him to amend the plaint and insert some facts at Para No.12 after the word defendant No.3 that, "And not binding the sale deed of defendant No.3 and not binding the sale deed which was executed dated 08.07.2024 by the defendant No.3 in favour of defendants No.5 and 6" and in the Prayer after (B) the Para B(a) that, "the registered sale deed dated 08.07.2024 executed by the defendant No.3 in favour of defendants No.5 and 6 pertaining to the suit property may kindly be canceled by declaring that, it is null and void and has not binding upon the plaintiff", in the interest of justice and equity.

2. In the affidavit plaintiff stated that, he had filed this suit for cancellation of sale deed and declaration. Due to technical error and unavoidable circumstances, at the time of filing the suit, he has not mentioned above said matter and he is intending to insert the said matter in the plaint. It is stated that, the said facts are very much essential and if I.A is allowed, no loss or harm will be

caused to the other side. With this, the plaintiff prayed to allow the application.

3. The defendants No.5 and 6 have filed objections to the application contending that, the application is filed with imaginary story, as such, it cannot be allowed. The plaintiff filed this suit for the relief of declaration and injunction against the defendants No.1 to 4 in respect of suit property and the relief is claimed only against the defendants No.1 to 4, when the relief is sought only against them, the instant application is not maintainable. It is stated that, the defendants No.5 and 6 are bonafide purchasers of the suit property, the plaintiff filed present suit against the defendants No.5 and 6, it will change the nature of suit which cannot be acceptable in law. If the present application is allowed, great hardship will be caused to the defendants No.5 and 6. The plaintiff neither owner of the suit property nor having possession, as such, she has no locus-standi to file present application. With these contentions, the defendants No.5 and 6 prayed to reject the application.

4. Heard both counsel and perused the records.

5. Now the points that arise for consideration are as under;

1. Whether plaintiff has made out grounds to allow the application?

2. What order?

6. Answers on the above points are as under;

Point No.1 : In the Affirmative

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

REASONS

7. **POINT NO.1:-** The plaintiff filed this suit for the relief of cancellation of registered sale deed dated 26.07.2022 and to declare the gift deed dated 07.01.2023 is not binding on the plaintiff and also for permanent injunction. Now the case is at the stage of framing of issues and plaintiff filed this application praying to permit him to amend the plaint and insert the facts with respect to the execution of sale deed by the defendant no.3 in favour of defendants no.5 and 6 and also to insert prayer no.B(a) that, "registered sale deed dated 08.07.2024 executed by the defendant no.3 in favour of the defendants no.5 and 6 with respect to suit property is null and void and not binding on the plaintiff". The defendants no.5 and 6 have objected to the application contending that, the plaintiff has filed this suit only against the defendants no.1 to 4 and no relief is sought against the defendants no.5 and 6, therefore, the application cannot be allowed. If the amendment is allowed, it will change the nature of suit.

8. On perusal of entire records, it is true that, the plaintiff filed this suit only against the defendants no.1 to 4 alleging that, the defendants no.1 and 2 have purchased the suit property from the

plaintiff and subsequently, they canceled the sale deed and the plaintiff returned entire consideration amount but, the defendants have not canceled the sale deed and gifted the suit property to the defendant no.3 by executing gift deed dated 07.01.2023. Subsequently, the plaintiff filed I.A No.IV for impleading the defendants no.5 and 6 as they have purchased the suit property from defendant no.3 during the pendency of this suit. The said application was allowed by this Court on 30.11.2024 and after amendment, the defendants no.5 and 6 have appeared through their counsel. Now the plaintiff intends to insert Para No.B(a) at prayer column and also to insert the facts in the plaint that, the sale deed executed by the defendant no.3 is not binding on the plaintiff. On perusal of records, it is admitted fact that, the defendants no.5 and 6 have purchased the suit property during the pendency of this suit and they have been impleaded in the suit as defendants, in the circumstances, the plaintiff has to be permitted to insert the facts with respect to sale transaction between defendant no.3, 5 and 6, and also prayer sought against them. Further, the amendment sought by the plaintiff is necessary to avoid multiplicity of proceedings and for complete adjudication of the matter. Moreover, if the amendment sought is allowed, it will not change the nature of the suit or cause of action. In the circumstances, the application filed by the plaintiff has to be allowed. Hence, **I answer Point No.1 in the Affirmative.**

9. POINT NO.2 :- In view of discussion on Point No.1 and for the reasons stated therein, I proceed to pass the following;

ORDER

**I.A.No.VI filed by the plaintiff
under Order VI Rule 17 R/w Section
151 of C.P.C is hereby allowed.**

**The plaintiff is permitted to
amend the plaint.**

**For amendment and amended
plaint.**

*(Dictated to the Stenographer directly on computer, corrected, signed and
then pronounced by me in the open Court on 24th day of June, 2025).*

**Sd/-
(Geeta)
Civil Judge & JMFC.,
Haliyal**