



NC: 2026:KHC:12378
WP No. 11454 of 2022
C/W WP No. 11438 of 2022
WP No. 11443 of 2022
AND 4 OTHERS

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO.11454 OF 2022 (GM-CPC)

C/W

WRIT PETITION NO.11438 OF 2022 (GM-CPC)

WRIT PETITION NO.11443 OF 2022 (GM-CPC)

WRIT PETITION NO.11457 OF 2022 (GM-CPC)

WRIT PETITION NO.11459 OF 2022 (GM-CPC)

WRIT PETITION NO.11488 OF 2022 (GM-CPC)

WRIT PETITION NO.11515 OF 2022 (GM-CPC)

IN WP No. 11454/2022

BETWEEN:

SMT. S. ANITHA
W/O T RAVINDRA REDDY
AGED 44 YEARS
HOUSE WIFE
R/AT JILAKARAPALLI VILLAGE
KASABA HOBLI BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

...PETITIONER

(BY SRI. NARAYAN KUMAR V., ADVOCATE)

AND:

1. SRI SHIVARAMA REDDY
@ SHIVA REDDY
S/O VENKATARAMA REDDY
AGED 82 YEARS
2. SMT. LAKSHMAMMA
W/O SIVARAMA REDDY
@ SHIVA REDDY



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AGED 73 YEARS
AGRICULTURIST

3. SMT. PRATHIBA S
D/O SIVARAMA REDDY @ SHIVA REDDY
W/O NANJJI REDDY
AGED 48 YEARS
HOUSE WIFE
R/O 9TH WARD, NEAR NETHAJI CIRCLE
BAGEPALLI TALUK
CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207

4. SRI D S BABU
S/O SIVARAMA REDDY @ SHIVAREDDY
AGED 46 YEARS
AGRICULTURIST

R1, R2 AND R4 ARE RESIDENTS OF
DASAIHAGARIPALLI VILLAGE
DEVARAGUDIPALLI (GP)
KASABA HOBLI BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

5. SHIVAMMA
W/O M B GANGI REDDY
AGED 62 YEARS
MALLASANDRA VILLAGE
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207
6. JAIBARATHAMMA
W/O LATE M MUNI REDDY
D/O LATE K V RAJA REDDY
AGED 68 YEARS
R/AT 1ST CROSS ADHARASH NAGAR
MALURU TOWN, KOLAR DISTRICT
BENGALURU - 563 130

...RESPONDENTS

(BY SRI. RAMAIAH GOWDA L.M., ADVOCATE)



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THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO OS NO.103/2014, ON THE FILE OF THE HONBLE CIVIL JUDGE AND JFMC COURT, BAGEPALLI AND BY GRANTING THE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER SET ASIDE AN IMPUGNED ORDER DATED 07.01.2022 PASSED ON IA NO.12 IN OS 103/2014 FILED BY R6 UNDER ORDER 6 RULE 17 READ WITH SECTION 151 OF CPC WHICH IS MARKED AS ANNEXURE-E.

IN WP NO. 11438/2022

BETWEEN:

SMT. S. ANITHA
W/O. T. RAVINDRA REDDY,
AGED ABOUT 44 YEARS,
HOUSE WIFE,
R/AT JILAKARAPALLI VILLAGE,
KASABA HOBLI,
BAGEPALLI TALUK,
CHIKKABALLAPURA DISTRICT,
KARNATAKA-561 207.

...PETITIONER

(BY SRI. NARAYAN KUMAR V., ADVOCATE)

AND:

1. SRI. SHIVARAMA REDDY @ SHIVA REDDY
S/O. VENKATARAMA REDDY,
AGED ABOUT 82 YEARS,
AGRICULTURISTS
2. SMT. LAKSHMAMMA
W/O. SIVARAMA REDDY @ SHIVA REDDY,
AGED ABOUT 73 YEARS,
AGRICULTURISTS
3. SMT. PRATHIBA. S
D/O. SIVARAMA REDDY @ SHIVA REDDY,
W/O. NANJJI REDDY,



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AGED ABOUT 48 YEARS,
HOUSE WIFE,
R/O. 9TH WARD, NEAR NETHAJI CIRCLE,
BAGEPALLI TALUK, CHIKKABALLAPUR DISTRICT,
KARNATAKA-561 207.

4. SRI. D. S. BABU
S/O. SIVARAMA REDDY @ SHIVA REDDY,
AGED ABOUT 46 YEARS,
AGRICULTURIST,

R1, R2 AND R4 ARE RESIDENTS OF
DASIAHGARIPALLI VILLAGE,
DEVARAGUDIPALLI (GP),
KASABA HOBLI, BAGEPALLI TALUK,
CHIKKABALLAPUR DISTRICT,
KARNATAKA-561 207.

5. SHIVAMMA
WIFE OF M. B. GANGI REDDY,
AGED ABOUT 62 YEARS,
MALLASANDRA VILLAGE, BAGEPALLI TALUK,
CHIKKABALLAPURA DISTRICT,
KARNATAKA-561 207.

6. JAIBARATHAMMA
WIFE OF LATE M. MUNI REDDY,
DAUGHTER OF LATE K. V. RAJA REDDY,
AGED ABOUT 68 YEARS,
RESIDING AT 1ST CROSS, ADHARASH NAGAR,
MALURU TOWN, KOLAR DISTRICT,
BENGALURU-563 130.

...RESPONDENTS

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
ENTIRE RECORDS PERTAINING TO OS NO.103/2014,ON
THE FILE OF THE HONBLE SENIOR CIVIL JUDGE AND JFMC
COURT, BAGEPALLI AND BY GRANTING THE WRIT OF
CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR
ORDER SET ASIDE AN IMPUGNED ORDER DATED



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07.01.2022 PASSED ON APPLICATION FILED BY R1 AND 3
AS IA NO.13 UNDER ORDER 6 RULE 17 READ WITH
SECTION 151 OF CPC VIDE ANNEX-F.

IN WP NO. 11443/2022

BETWEEN:

1. SMT S ANITHA
W/O RAVINDRA REDDY
AGED ABOUT 44 YEARS
HOUSE WIFE,
R/AT JILAKARAPALLI VILLAGE
KASABA HOBLI, BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT, KARNATAKA - 561 207

...PETITIONER

(BY SRI. NARAYAN KUMAR V., ADVOCATE)

AND:

1. SRI SHIVARAMA REDDY
@ SIVARAMA REDDY
S/O VENKATARAMANA REDDY
AGED ABOUT 82 YEARS,
AGRICULTURIST,
2. SMT LAKSHMAMMA
W/O SIVARAMA REDDY @ SHIVA REDDY
AGED ABOUT 73 YEARS
AGRICULTURIST.
3. SMT PRATHIBA S
D/O SIVARAMA REDDY @ SHIVA REDDY
W/O NANJJI REDDY
AGED ABOUT 48 YEARS
HOUSE WIFE
R/O 9th WARD,
NEAR NETHAJI CIRCLE,
BAGEPALLI TALUK



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CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207

4. SRI. D.S BABU
S/O SIVARAMA REDDY @ SHIVA REDDY
AGED ABOUT 46 YEARS
AGRICULTURIST

R1, R2 AND R4 ARE
R/AT DASAIAGHGARIPALLI VILLAGE,
DEVARAGUDIPALLI (GP)
KASABA HOBLI, BAGEPALLI TALUK
CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207

5. SHIVAMMA
W/O M.B. GANGI REDDY
MALLASANDRA VILLAGE BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

6. JAIBARATHAMMA
W/O LATE M. MUNI REDDY
D/O LATE K.V. RAJA REDDY
AGED ABOUT 68 YEARS
R/AT 1ST CROSS, ADHARSH NAGAR
MALURU TOWN, KOLAR DISTRICT
BENGALURU - 563 130

...RESPONDENTS

(BY SRI.RAMAIAH GOWDA L.M, ADVOCATE FOR R1-4 & R6)

THIS W.P. IS FILED UNDER ARTICE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR ENTIRE
RECORDS PERTAINING TO O.S.NO.103/2014 ON THE FILE
OF THE HONBLE SR. CIVIL JUDGE AT BAGEPALLI AND SET
ASIDE AN IMPUGNED ORDER DTD.07.01.2022 PASSED ON
APPLICATION FILED BY R-4 AS IA NO.15 UNDER ORDER 6
RULE 17 READ WITH SECTION 151 OF CIVIL PROCEDURE
CODE VIDE ANNEXURE-F.



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IN WP NO. 11457/2022

BETWEEN:

SMT S ANITHA
W/O T RAVINDRA REDDY
AGED ABOUT 44 YEARS
HOUSE WIFE

R/AT JILAKARAPALLI VILLAGE
KASABA HOBLI
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

...PETITIONER

(BY SRI. NARAYAN KUMAR V., ADVOCATE)

AND:

1. SRI SHIVARAMA REDDY
@ SHIVA REDDY
S/O VENKATARAMA REDDY
AGED ABOUT 82 YEARS
AGRICULTURIST
2. SMT. LAKSHMAMMA
W/O SIVARAMA REDDY @ SHIVA REDDY
AGED 73 YEARS
AGRICULTURIST
3. SMT. PRATHIBA S
D/O SIVARAMA REDDY @ SHIVA REDDY
W/O NANJJI REDDY
AGED 48 YEARS
HOUSE WIFE
R/O 9TH WARD, NEAR NETHAJI CIRCLE
BAGEPALLI TALUK
CHIKKABALLAPUR DISTRICT
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4. SRI D S BABU
S/O SIVARAMA REDDY @ SHIVAREDDY
AGED 46 YEARS
AGRICULTURIST

RESPONDENTS NO.1, 2 AND 4 ARE
RESIDENTS OF DASAIHGARIPALLI VILLAGE
DEVARAGUDIPALLI (GP)
KASABA HOBLI
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

5. SHIVAMMA
W/O M B GANGI REDDY
AGED 62 YEARS
MALLASANDRA VILLAGE
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

6. JAIBARATHAMMA
W/O LATE M MUNI REDDY
D/O LATE K V RAJA REDDY
AGED 68 YEARS
R/AT 1ST CROSS, ADHARASH NAGAR
MALURU TOWN, KOLAR DISTRICT
BENGALURU - 563 130

...RESPONDENTS

(BY SRI. RAMAIAH GOWDA L.M., ADVOCATE R6
R5 IS SERVED AND UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
ENTIRE RECORDS PERTAINING TO OS NO.103/2014,ON
THE FILE OF THE HONBLE CIVIL JUDGE AND CJM COURT,
AT CHIKKABALLAPURA AND BY GRANTING THE WRIT OF
CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR
ORDER SET ASIDE AN IMPUGNED ORDER DATED
07.01.2022 IN O.S.103/2014 PASSED ON APPLICATION



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FILED BY RESPONDENTS UNDER ORDER 6 RULE 17 READ
WITH SECTION 151 OF CPC WHICH IS MARKED AS
ANNEXURE-E.

IN WP NO. 11459/2022

BETWEEN:

SMT S ANITHA
W/O T RAVINDRA REDDY
AGED ABOUT 44 YEARS
HOUSE WIFE
R/AT JILAKARAPALLI VILLAGE,
KASABA HOBLI,
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

...PETITIONER

(BY SRI. NARAYAN KUMAR V., ADVOCATE)

AND:

1. SRI SHIVARAMA REDDY
@ SHIVA REDDY
S/O VENKATARAMAREDDY
AGED ABOUT 82 YEARS,
AGRICULTURIST,
2. SMT. LAKSHMAMMA
W/O SIVARAMA REDDY @ SHIVA REDDY
AGED ABOUT 73 YEARS
3. SMT. PRATHIBA S
D/O SIVARAMA REDDY @ SHIVA REDDY
W/O NANJJI REDDY
HOUSE WIFE
R/O 9th WARD,
NEAR NETHAJI CIRCLE,
BAGEPALLI TALUK
CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207



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4. SRI. D.S. BABU
S/O SIVARAMA REDDY
@ SHIVA REDDY
R/AT DASAIAGHGARIPALLI VILLAGE,
DEVARAGUDIPALLI (GP)
KASABA HOBLI,
BAGEPALLI TALUK
CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207
5. SHIVAMMA
W/O M.B. GANGI REDDY
MALLASANDRA VILLAGE
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207
6. JAIBARATHAMMA
W/O LATE M. MUNI REDDY
D/O LATE K.V. RAJA REDDY
AGED ABOUT 68 YEARS
R/AT 1ST CROSS,
ADHARSH NAGAR
MALURU TOWN,
KOLAR DISTRICT
BENGALURU - 563 130

...RESPONDENTS

(BY SRI. RAMAIAH GOWDA L.M., ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO OS NO.103/2014, ON THE FILE OF THE HONBLE CIVIL JUDGE AND CJM COURT, AT CHIKKABALLAPURA AND BY GRANTING THE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER SET ASIDE AN IMPUGNED ORDER DATED 07.01.2022 PASSED APPLICATION FILED BY THE R2, AS IA NO.14 INO.S.103/2014 UNDER ORDER 6 RULE 17 READ WITH SECTION 151 OF CPC WHICH IS MARKED AS ANNEXURE-F.



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IN WP NO. 11488/2022

BETWEEN:

SMT S ANITHA
W/O T RAVINDRA REDDY
AGED ABOUT 44 YEARS
HOUSE WIFE
R/AT JILAKARAPALLI VILLAGE,
KASABA HOBLI, BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

...PETITIONER

(BY SRI. NARAYAN KUMAR V., ADVOCATE)

AND:

1. SRI SHIVARAMA REDDY
@ SHIVA REDDY
S/O VENKATARAMAREDDY
AGED ABOUT 82 YEARS,
AGRICULTURIST,
2. SMT. LAKSHMAMMA
W/O SIVARAMA REDDY
@ SHIVA REDDY
AGED ABOUT 73 YEARS
AGRICULTURIST
3. SMT. PRATHIBA S
D/O SIVARAMA REDDY
@ SHIVA REDDY
W/O NANJJI REDDY
AGED ABOUT 48 YEARS
HOUSE WIFE
R/O 9TH WARD, NEAR NETHAJI CIRCLE,
BAGEPALLI TALUK
CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207



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4. SRI. D.S. BABU
S/O SIVARAMA REDDY
@ SHIVA REDDY
R/AT DASAIAHGARIPALLI VILLAGE,
DEVARAGUDIPALLI (GP)
KASABA HOBLI, BAGEPALLI TALUK
CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207
5. SHIVAMMA
W/O M.B. GANGI REDDY
MALLASANDRA VILLAGE, BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207
6. JAIBARATHAMMA
W/O LATE M. MUNI REDDY
D/O LATE K.V. RAJA REDDY
R/AT 1ST CROSS, ADHARSH NAGAR
MALURU TOWN, KOLAR DISTRICT
BENGALURU - 563 130

...RESPONDENTS

(BY SRI. RAMAIAH GOWDA L.M., ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO O.S.NO.103/2014 ON THE FILE OF THE HONBLE SENIOR CIVIL JUDGE AND JMFC COURT,BAGEPALLI AND BY GRANTING THE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER, SET ASIDE AN IMPUGNED ORDER DATED 07.01.2022 PASSED ON IA NO.10, FILED BY THE R2 UNDER ORDER 6 RULE 17 READ WITH SECTION 151 OF CIVIL PROCEDURE CODE AND ETC.

IN WP NO. 11515/2022

BETWEEN:

1. SMT S ANITHA
W/O T RAVINDRA REDDY



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AGED 44 YEARS
HOUSE WIFE
R/AT JILAKARAPALLI VILLAGE
KASABA HOBLI BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

...PETITIONER

(BY SRI. NARAYAN KUMAR V., ADVOCATE)

AND:

1. SRI SHIVARAMA REDDY
@ SHIVA REDDY
S/O VENKATARAMA REDDY
AGED 82 YEARS
AGRICULTURIST
2. SMT. LAKSHMAMMA
W/O SIVARAMA REDDY @ SHIVA REDDY
AGED 73 YEARS
AGRICULTURIST
RESIDENT OF DASAIHGARIPALLI VILLAGE
DEVARAGUDIPALLI (GP) KASABA HOBLI
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207
3. SMT. PRATHIBA S
D/O SIVARAMA REDDY @ SHIVA REDDY
W/O NANJJI REDDY
AGED 48 YEARS
HOUSE WIFE
R/O 9TH WARD, NEAR NETHAJI CIRCLE
BAGEPALLI TALUK CHIKKABALLAPUR DISTRICT
KARNATAKA - 561 207
4. SRI D S BABU
S/O SIVARAMA REDDY @ SHIVA REDDY
AGED 46 YEARS
AGRICULTURIST
RESIDENT OF DASAIHGARIPALLI VILLAGE



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DEVARAGUDIPALLI (GP)
KASABA HOBLI BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

5. SHIVAMMA
W/O M B GANGI REDDY
AGED 62 YEARS
MALLASANDRA VILLAGE
BAGEPALLI TALUK
CHIKKABALLAPURA DISTRICT
KARNATAKA - 561 207

6. JAIBARATHAMMA
W/O LATE M MUNI REDDY
D/O LATE K V RAJA REDDY
AGED 68 YEARS R/AT 1ST CROSS
ADHARASH NAGAR MALURU TOWN,
KOLAR DISTRICT
BENGALURU - 563 130

...RESPONDENTS

(BY SRI.RAMAIHAH GOWDA L.M.,ADVOCATE FOR R1-4 & R6
R5 IS SERVED AND UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
ENTIRE RECORDS PERTAINING TO O.S.NO.103/2014, ON
THE FILE OF THE HONBLE CIVIL JUDGE, BAGEPALLI AND
BY GRANTING THE WRIT OF CERTIORARI OR ANY OTHER
APPROPRIATE WRIT OR ORDER SET ASIDE AN IMPUGNED
ORDER DATED 07.01.2022 PASSED ON ON IA NO.1 FILED
BY R4, UNDER ORDER 6 RULE 17 READ WITH SECTION
151 OF CPC VIDE ANNEX-E.

THESE PETITIONS, COMING ON FOR PRELIMINARY
HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE
THEREIN AS UNDER:

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU



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ORAL ORDER

1. The present petitions seek to challenge an order dated 07.01.2022, passed by the learned Civil Judge and JMFC Court, Bagepalli on I.A. No.12 in O.S.No.103/2014 (hereinafter referred to as 'Impugned Order'). By the Impugned order, seven applications filed by the respondents / defendants under Order VI, Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') have been allowed by the learned Trial Court. The challenge in the present petitions is to the order allowing these applications.

2. The learned counsel for the petitioner/plaintiff has contended that the applications could not have been allowed, since it seeks to retract the admissions made with respect to the suit schedule properties. Reliance, in this behalf, is made to paragraph 10, line 16 of the Written Statement of the respondent/defendant No.6, which is the



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only amendment that is sought for in the application, and
is extracted below:

*"In Written statement at true facts in para No.10 at 16th line, delete the words **"are all Ancestral and Joint family properties 1st defendant's father Venkataramareddy"**. In that place the following sentences shall be substituted **"are all belongs to one J. Venkataramareddy, the said J. Venkataramareddy executed registered release deed dated 27/5/1972 in favour of his sons Shankar Reddy, Shivaramareddy @ Shivareddy Defendant No.1 herein, Raja Reddy, Srinivasa Reddy and Soma Shekara Reddy in respect of properties situated at Mallasandra Village, and Dasaiahgaripalli village of Bagepalli Taluk, Chikkbhallapura district. The suit item No.2 to 7, 11 and 12 are acquired by the Defendant No.1 by way of compromise decree passed in O.S.No.30/1993, since the date of partition it is exclusively allotted to his share. The said properties are self acquired properties of Defendant No.1 herein and it is his individual properties. This suit item No.2 to 7, 11 and 12 have lost the characteristic of ancestral and joint family properties, thus the nature of the properties claimed by the plaintiff have been completely changed by virtue of compromise decree passed in O.S.No.30/1993 in favour of her father 1st defendant. Thereby the suit of the plaintiff is not maintainable."**" "*

[Emphasis Supplied]

3. Thus, it is contended by the learned counsel for the petitioner/plaintiff that the amendment seeks to withdraw an admission, which could not have been allowed.



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4. Learned counsel for the respondents on the other hand contends that there is no withdrawal of any admission made. He contends that there were two typographical errors, which have occurred in the petition, which have been sought to be corrected. It is contended that the amendment has occurred on account of a *bonafide* mistake that the counsel before the learned Trial Court made while drafting. The applications was therefore allowed, imposing cost of ₹100 each on the respondents' applications.

5. The learned counsel for the respondents further contends that this amendment is a pre-trial amendment and that no prejudice would be caused to the petitioner if the same is allowed. He further submits that the parties in the present suit are all siblings and belong to one family.

6. Learned Counsel for the respondents also seek to rely upon paragraph Nos.3 and 4 of the written statement, wherein he submits that he has taken the plea that the averment of the plaintiff/petitioner in the plaint was false



and that the properties were not ancestral properties of the petitioner / plaintiff.

7. Learned Trial Court after examining the amendment gave a finding that since the application has been filed before the commencement of the trial, the amendment is necessary for the proceedings.

8. A perusal of record shows that the plaint has been filed by the petitioner for a decree of partition and separate possession, in respect of a 1/4th share of the suit schedule properties. It is not disputed that the petitioner, as well as the respondents all belong the same family. While it is the case of the plaintiff that the properties were ancestral and joint family properties. It is not disputed by the parties that Issue No.1 framed by the learned Trial Court is as to whether the suit schedule properties are joint or ancestral properties. Thus, this aspect in any event will have to be proved by the parties at trial.



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9. A perusal of the Written Statement also reflects the contention that the suit schedule properties are not ancestral properties as has been reflected in paragraphs 3 and 4 of the Written Statement. Since the Written Statements are *pari materia* to each other, the extract of the Written Statement of defendant no. 6 is set out below:

"3. Regarding para no.3 of the plaint: allegations that the Plaintiff and defendants are the members of undivided Hindu Joint family is hereby specifically denied as false and incorrect, further the Plaintiff has also contended that the schedule suit properties are all ancestral and joint family properties and they are in joint possession and enjoyment of the same is hereby specifically denied as false and incorrect. The relationship between the parties is admitted as true and correct. The marriages of the Plaintiff and defendants have been performed out of joint family funds are hereby specifically denied as false and incorrect. The Plaintiff is hereby put to strict proof of the same."

4. Regarding para no. 4 of the plaint: allegations that the suit item no.1 to 7 and the suit item no. 11 & 12 were the ancestral properties of the Plaintiff are hereby denied as false and baseless. And the suit Item No. 2 to 7 & 11 to 12 are the ancestral properties of plaintiff and defendant No. 1 to 4 the suit item no.1 is self acquired property of defendant no.4. and these properties were acquired by the 1st defendant by virtue of partition decree passed in O.S No. 30/1998 on the file of senior civil judge at Chikkaballapur between the Pt defendant's brother is true and correct but the Plaintiff has given wrong suit number and its correct O.S. No. 30/1993. In the same para the Plaintiff has taken a plea that the suit item no. 8 to 10 are acquired on behalf of the joint family in the name of 2nd defendant Lakshmamma by virtue of registered sale deeds dated 2-6-1980 out of the joint family funds now the suit schedule properties are in joint



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possession and enjoyment of the Plaintiff and defendants is hereby specifically denied as false and incorrect. The Plaintiff herein put to strict proof the same."

[Emphasis Supplied]

10. It is no longer *res integra* that ordinarily the Courts have to be liberal while granting amendments to the plaint especially, if the amendment is necessary to meet the ends of justice.

11. The Hon'ble Supreme Court in the case of ***Dinesh Goyal alias Pappu vs. Suman Agarwal (Bindal) and others***¹ has while discussing amendments to pleadings, consolidated the law passed and has held that it is the settled law that ordinarily Court should adopt liberal approach in granting leave to amend pleadings. However, provided that the amendments would satisfy the conditions of not working injustice on the other side and being necessary for the purpose of determining the real question and issue. The relevant extract is set out below:

"11. At this juncture, before proceeding to the merits of the case, let us consider the law relating to the

¹ 2024 SCC Online SC 2615



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amendments of pleadings.

11.1. **The settled rule is that the Courts should adopt a liberal approach in granting leave to amend pleadings, however,** the same cannot be in contravention of the statutory boundaries placed on such power. In **North Eastern Railway Administration, Gorakhpur v. Bhagwan Das**² it was held as under:

"16. Insofar as the principles which govern the question of granting or disallowing amendments under Order 6 Rule 17 CPC (as it stood at the relevant time) are concerned, these are real so well settled. Order 6 Rule 17 CPC postulates amendment of pleadings at any stage of the proceedings. In *Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil* [AIR1957SC363] which still holds the field, it was held that **all amendments ought to be allowed which satisfy the two conditions : (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties.** Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him injury which could not be compensated in costs. [Also see *Gajanan Jaikishan Joshi v. Prabhakar Mohanlal Kalwar* (1990) 1 SCC 166.]"

11.2 Over the years, through numerous judicial precedents certain factors have been outlined for the application of Order VI Rule 17. Recently, this Court in **Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr.**,³ after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles:-

- (i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. **This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC.**

² (2008) 8 SCC 511

³ 2022 SCC OnLine SC 1128



- (ii) *In the following scenario such applications should be ordinarily allowed if the amendment **is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.***
- (iii) *Amendments, while generally should be allowed, the same should be disallowed if –*
- (a) *By the amendment, the parties seeking **amendment does not seek to withdraw any clear admission** made by the party which confers a right on the other side.*
 - (b) ***The amendment does not raise a time-barred claim,** resulting in the divesting of the other side of a valuable accrued right (in certain situations)*
 - (c) *The amendment completely changes the nature of the suit;*
 - (d) *The prayer for amendment is malafide,*
 - (e) *By the amendment, the other side should not lose a valid defence.*
- (iv) *Some general principles to be kept in mind are–*
- (I) *The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.*
 - (II) *Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.*
 - (III) *The amendment should not change the cause of action, so as to setup an entirely new case, foreign to the case set up in the plaint.”*

[Emphasis supplied]

12. The learned counsel for the parties also state that after the passing of the Impugned Order, the plaint was



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amended and the learned Trial Court is proceeding with the evidence in the matter.

13. In any event, from any examination of the extract of the Written Statement reproduced in the paragraph 9 above, it is clear that the contention that the suit properties are ancestral has been denied by the respondent/defendant. Thus, it cannot be said that an admission is being withdrawn.

14. Accordingly, in view of the settled law, this Court does not deem it apposite to interfere with the Impugned Order. These petitions are accordingly ***dismissed***. However, the costs which were awarded for this amendment are increased to ₹1,000/- (Rupees One Thousand) per defendant. The costs shall be paid by the respondents before the next date of the learned Trial Court. All pending applications stand closed.

(TARA VITASTA GANJU)
JUDGE

JJ
List No.: 2 Sl No.: 12