



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 23<sup>RD</sup> DAY OF FEBRUARY, 2026**

**BEFORE**

**THE HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**WRIT PETITION NO. 11609 OF 2020 (GM-CPC)**

**BETWEEN:**

1. LAKSHMIPATHI  
S/O LATE RAMAIAH  
AGED ABOUT 65 YEARS
2. SMT. SUMITHRA  
D/O LATE KODANDAIAH  
AGED ABOUT 35 YEARS
3. SMT. SUSHEELA  
D/O LATE KODANDAIAH  
AGED ABOUT 30 YEARS
4. SMT. MANJULA  
D/O LATE KODANDAIAH  
AGED ABOUT 29 YEARS
5. SATHYANARAYANA @ SATHYA  
S/O LATE KODANDAIAH  
AGED ABOUT 26 YEARS
6. SMT. NAGARATHNAMMA  
W/O LATE KODANDAIAH  
AGED ABOUT 55 YEARS
7. RAMASANJEEVAIAH  
S/O LATE LAKSHMAIAH  
AGED ABOUT 48 YEARS



8. RAMA MURTHY  
S/O LATE LAKSHMAIAH  
AGED ABOUT 55 YEARS

9. CHIKKARAMANNA  
S/O LATE LAKSHMAIAH  
AGED ABOUT 45 YEARS

ALL ARE RESIDING AT DOGGANAHALLI  
MALLEKAVU POST, C.N.DURGA HOBLI,  
KORATAGERE TALUK, TUMKUR DISTRICT-572 129

...PETITIONERS

(BY SRI. GANGADHARAPPA A.V, ADVOCATE)

**AND:**

1. RAMASWAMY  
S/O LATE KAMPLAIAH  
AGED ABOUT 58 YEARS  
RESIDENT OF MUDDA RAMAYYANA PALYA  
KORA HOBLI, TUMKUR TALUK AND  
DISTRICT-572101.

2. SMT. PUSHPAVATHI D.K  
D/O LATE KAMPLAIAH  
W/O UDAYAKUMAR,  
AGED ABOUT 36 YEARS  
RESIDING AT DOGGANAHALLI  
MALLEKAVU POST C.N.DURGA HOBLI,  
KORATAGERE TALUK,

3. RAMAKRISHNAIAH  
S/O LATE RAMAIAH  
AGED ABOUT 63 YEARS  
ANANTHARAMAIAH S/O KAMPLAIAH  
SINCE DEAD BY LRS

4. RAGHAVENDRA  
S/O ANANTHARAMAIAH  
AGED ABOUT 29 YEARS



5. DIYASHREE  
D/O ANANTHARAMAIAH  
AGED 32 YEARS

BOTHA ARE RESIDENTS OF KUMARA RAMA NILAYA  
NEAR NATIONAL ENGLISH SCHOOL ARAKERE  
YALLAPPA VILLAGE TUMAKURU-572 101.

6. RAMACHANDRAIAH  
S/O LATE KAMPLAIAH  
SINCE DEAD BY LRS

- 6(a) SMT. SUSHEELAMMA  
W/O LATE RAMACHANDRAIAH  
AGED 40 YEARS

- 6(b) MADHU D.R S/O LATE RAMACHANDRAIAH  
AGED 25 YEARS

- 6(c) SATHEESHA D.R. S/O LATE RAMACHANDRAIAH  
AGED 23 YEARS

ALL ARE RESIDING AT  
DOGGANAHALLI,  
C.N. DURGA HOBLI,  
KORATAGERE TALUK,  
TUMKUR DISTRICT-572129.

(CAUSE TITLE AMENDED VIDE ORDER DATED  
16/6/2025)

7. SMT. PUTTAMMA  
W/O LATE KAMPLAIAH  
SINCE DEAD BY LRS  
(RESPONDENTS NO.1, 2, 4 TO 6 & 8  
CAUSE TITILE AMENDED VIDE ORDER DATED  
12/8/2024)  
RESPONDENTS NO.5 & 6 ARE RESIDING AT  
DOGGANAHALLI,  
MALLEKAVU POST, C.N. DURGA HOBLI,



KORATAGERE TALUK,  
TUMKUR DISTRICT-572 129.

8. SMT. C. LAKSHMIDEVAMMA  
W/O ANANTHARAMAIAH  
AGED ABOUT 52 YEARS  
RESIDING AT YALLAPURA  
TUMKUR DISTRICT-572 101
9. SMT. SUVARANAMMA  
W/O D.R. RAMAKRISHANAIAH  
AGED ABOUT 52 YEARS  
THUNGASHREE NILAYA  
C/O VIJAYSHANKAR I MAIN ROAD,  
5<sup>TH</sup> CROSS, HANUMANTHAPURA  
TUMKUR CITY-572 010
10. G. JAGADHISHA  
S/O GADIYAPPA  
AGED 46 YEARS  
RESIDENT OF VEEROBANAHALLI  
C.N. DURGA HOBLI, KORATAGERE TALUK  
TUMKUR DISTRICT 572 129

...RESPONDENTS

(BY SRI. V.V GUNJAL, ADVOCATE FOR R1 & R2,  
SRI. VIJAYA KUMARA, ADVOCATE FOR  
R4 TO R5, R6(a) TO (c), R8 & R10  
SRI VIVEK S, ADVOCATE FOR R3 & R9  
R3 IS SERVED & UNREPRESENTED  
VIDE ORDER DATED 12/08/2024, R7 IS DEAD &  
R1, R2, R4 TO R6 & R8 ARE TREATED AS LRS OF R7)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER  
DTD.25.9.2020 PASSED BY THE COURT OF THE ADDITIONAL  
SENIOR CIVIL JUDGE AND JMFC AT MADHUGIRI ON IA  
NO.XVIII IN O.S.NO.24/2006 CERTIFIED COPY OF WHICH IS  
PRODUCED AS ANNEXURE-F AND THEREBY ALLOW THE IA  
NO.XVIII FILED BY PETITIONERS A TRUE COPY OF WHICH IS  
PRODUCED AS ANNEXURE-D.



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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

**ORAL ORDER**

1. The present petition seeks to challenge an order dated 25.09.2020 in O.S.No.24/2006 passed by the Addl. Senior Civil Judge & JMFC, Madhugiri (hereinafter referred to as the "Impugned Order"). By the Impugned Order, an application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 filed by the petitioners [defendant No.1 to 10 except defendant No.2 before the learned Trial Court] has been dismissed with costs of Rs.1,000/-. The learned Trial Court has found that the suit has been filed in the year 2006 (earlier O.S.No.32/1996) and no explanation has been given for the long delay in seeking the amendment.

2. The learned counsel for the petitioners submits that the suit was filed in the year 2006. However, after a decree was passed in the original suit, an appeal was filed



by the petitioners against the Judgment and Decree. By its order dated 31.10.2019, the Appellate Court in R.A.No.5013/2018 directed a remand of the suit. It is only thereafter, an application was filed under Order 6 Rule 17 of CPC seeking an amendment to the written statement. Learned counsel for the petitioners further submits that these amendments are merely clarificatory in nature.

3. Learned counsel for the respondents No.1 and 2 (Plaintiffs before the learned Trial Court) submits that the Impugned Order does not suffer from any infirmity. He submits that the suit was in fact filed in the year 2006 being O.S.No.24/2006 and thus, 20 years have been passed. Learned counsel further submits that the application does not set out the any reason as to how the defendant No.1 was diligent while filing the application in terms of the proviso to Order 6 Rule 17 of the CPC. In addition, it is submitted that the petitioners are merely trying to fill up the lacuna in their evidence.



4. It is not disputed by the parties that the Appellate Court by its judgment has allowed the appeal filed by the petitioners and set aside the judgment and decree and remanded the matter to the Trial Court for fresh disposal after framing of additional issues and after impleading certain parties. The Appellate Court further directed that the parties shall co-operate for speedy disposal in the matter. The relevant extract of the judgment passed in RA.No.5013/2018 by the 4<sup>th</sup> Additional District and Sessions Judge, Madhugiri dated 25.09.2020 is set out below:

**"The Judgment & decree passed by the lower court in OS.24/2006 dated:30.01.2018 is hereby set aside.**

**The matter is hereby remanded back to the lower court for fresh disposal in accordance with law after framing additional issues as pointed out in the body of this judgement and impleading the persons whose names are appearing in the records suit item Nos.11, 1 & 18 (as per Exs.P11, P16 & p18) and permitting the defendant No.s 15 & 16 to produce their additional evidence and giving further opportunity to the plaintiffs and defendants to adduce further evidence.**

**Both the appellants and respondents i.e., plaintiffs and defendants are hereby directed to cooperate with the lower court for speedy disposal of the**



***matter and** shall appear before the lower court on or before 09.12.2019 without any notice from the lower court.*

[Emphasis Supplied]

5. Learned counsel for the petitioners submits that the order passed by the Appellate Court in R.A.No.5013/2018 on 31.10.2019 has been challenged in MSA Nos.37/2020, 71/2020 and 94/2020 by the respondent Nos.1 and 2.

6. It is also not disputed by the parties that the amended issues had not yet been framed. It is at that time, that petitioners filed I.A.No.18 seeking to amend their written statement on 06.02.2020. The petitioners have contended that the properties have already been partitioned *inter se* the family members and since there is already a division, the amendment was necessary with a view to clarify the properties available and those which are not available. In addition, it is contended that the amendments are only clarificatory in nature and this will not alter the nature of defence taken by the petitioners. This has also been



explained by the petitioners in their application. The relevant extract is set out below:

*"2. In the earlier written statement filed earlier it has been clearly stated that there is no existence of joint family and also there are previous decisions holding that the family is divided and subsequently the parties have acquired properties independently.*

*3. Evidence has been led on this aspect, and also documents have been produced supporting these contentions. **Details of partition and self-acquisitions of the properties are not pleaded. The documents themselves are self-explanatory of these things. The proposed amendment is clarificatory in nature.***

*4. In the proposed amendment **how the suit properties are devolved on the parties are explained.** This will not alter the nature of the defence already taken in the earlier statement. **This amendment could not be made inspite of due diligence exercised by us.** The plaintiffs will not be put to any inconvenience or surprised if the proposed amendment is allowed. On the other hand, if the proposed amendment is not allowed, we will be put to great inconvenience and hardship."*

[Emphasis Supplied]

7. The learned Trial Court however after setting out that this is a second round of litigation and that the delay in filing this application has not properly been explained, has held that when the matter was posted for final disposal, an



amendment could not be allowed. Thus, the application for amendment was dismissed.

8. Undisputably, the suit has been pending for the last more than twenty years. After the original written statement was filed, an amended written statement was stated to be filed by the petitioners in the year 2012. However, after the decree was passed, the Appellate Court had remanded the matter back to the learned Trial Court in terms of the directions set out above. Since the directions for remand passed by the Appellate Court also provides for additional issues to be framed which had yet not been framed, the trial in the matter could not have commenced. Thus, the proviso to Order 6 Rule 17 of the CPC which provides for due diligence to be set out in cases where trial has commenced, in the facts of this case, is not applicable in view of the remand. No doubt, that these amendments would have been sought for earlier. However, one of the principles for application under Order 6 Rule 17 of the CPC is that it must prevent further



litigations. Since the amendments are clarificatory in nature, this would not prejudice the respondents/plaintiffs. Accordingly, in the interest of justice, this Court deems it apposite to allow the application filed by the petitioners subject to payment of costs.

9. Accordingly, this Court proceeds to pass the following:

**ORDER**

- (i) The writ petition is ***allowed;***
- (ii) The order dated 25.09.2020 on I.A.No.XVIII in O.S.No.24/2006 passed by the Additional Senior Civil Judge & JMFC, Madhugiri, is set aside;
- (iii) I.A.No.XVIII is allowed subject to payment of cost in a sum of Rs.18,000/- to be paid by the petitioners/defendants (Rs.2,000/- to be paid by each defendants) to respondent Nos.1 and 2/plaintiffs within two weeks from today before the learned Trial Court.



(iv) The petitioners shall be granted four weeks' time to file the amended written statement.

(v) It is made clear that this Court has not examined the matter on merits and rights and contentions of both the parties are left open to be agitated before the learned Trial Court.

(vi) Learned counsel for the parties submit that they will not take unnecessary adjournments before the Trial Court. The parties are bound down by the statement made by their counsels before this court.

(vii) The learned Trial Court is once again requested to dispose of the matter as expeditiously as possible.

(viii) All pending applications stand closed.

**Sd/-**  
**(TARA VITASTA GANJU)**  
**JUDGE**

YN/PSJ  
List No.: 1 Sl No.: 16