



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

WRIT PETITION NO. 15714 OF 2021 (GM-CPC)

BETWEEN:

1. SRI CHANNASHETTY
AGED ABOUT 55 YEARS.
2. SRI NAGASHETTY
AGED ABOUT 50 YEARS.
3. SRI LAKSHMANASHETTY
AGED ABOUT 48 YEARS.

PETITIONER Nos. 1 TO 3 ARE
SONS OF SRI BELURASHETTY.

ALL ARE RESIDENTS OF KADABAHALLI
BINDIGANAVILE HOBLI
NAGAMANGALA TALUK
MANDYA DISTRICT - 571 802.

...PETITIONERS

(BY SRI P.B. APPAIAH, ADV.)

AND:

1. SRI THAMMANNASHETTY
S/O LATE RAMSHETTI
AGED ABOUT 55 YEARS.
2. SRI RANGAMMA
W/O LATE SRI CHANNASHETTY
AGED ABOUT 78 YEARS.

RESPONDENT NO.2 IS DEAD
AND RESPONDENT NO.3 IS THE
ONLY SURVIVING LEGAL HEIR
SINCE RESPONDENT NO.3 IS



ALREADY ON RECORD.

3. SMT. PUTTALAKSHAMMA
D/O LATE SRI CHANNASHETTY
AGED ABOUT 57 YEARS.

ALL ARE RESIDENTS OF KADABAHALLI
BINDIGANAVILE HOBLI
NAGAMANGALA TALUK
MANDYA DISTRICT - 571 802.

...RESPONDENTS

(BY SRI NANJAPPAN B, ADV.)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TOCALL FOR RECORDSSET ASIDE THE IMPUGNED ORDER AT ANNEXURE-E DTD.15.4.2021 PASSED BY THE ADDL CIVIL JUDGE AND JMFC NAGAMANGALA ON IA NO.21 IN O.S.NO.02/2010 CONSEQUENTLY DISMISS THE APPLICATION VIDE IA NO.21 FILED BY THE DEFENDANTS/RESPONDENTS UNDER ORDER 6 RULE 17 CPC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. This writ petition under 226 of the Constitution of India is filed by defendant nos.3 to 5 with a prayer to set-aside the order dated 15.04.2021 passed on I.A.No.XX1 in O.S.No.2/2010 by the Court of Addl. Civil Judge & JMFC, Nagamangala.

2. Heard the learned counsel appearing for the parties.



3. The respondents herein had filed O.S.No.2/2010 before the jurisdictional civil Court seeking the relief of partition and separate possession of plaint schedule property. In the said suit, I.A.No.XXI was filed on behalf of the plaintiffs under Order VI Rule 17 of CPC with a prayer to amend the plaint and include 3 other ancestral properties. The said application was opposed by contesting defendants by filing objection. The Trial Court vide the order impugned dated 15.04.2021 has allowed the said application and being aggrieved by the same, the petitioners / defendant nos.3 to 5 are before this Court.

4. Learned counsel for the petitioners submits that plaintiffs have specifically asserted in the plaint that except the original plaint schedule property there is no other property that was not subjected to partition. Therefore, it was not permissible for the respondents to file application seeking amendment of the suit schedule property for including three other properties contending that they are ancestral properties. The application is filed belatedly and therefore the Trial Court was not justified in allowing the application.



5. Per contra, learned counsel for respondents / plaintiffs has argued in support of the impugned order and prays to dismiss the petition.

6. O.S.No.2/2010 is filed by the respondents herein for partition and separate possession of plaint schedule property. When the suit was at the stage of plaintiffs' evidence I.A.No.XXI was filed under Order VI Rule 17 of CPC with a prayer to amend the plaint schedule by including three other items which are said to be ancestral properties of the parties to the suit. In the objection filed by the contesting defendants to I.A.No.XXI it is nowhere stated that properties which are subject matter of the amendment are not the ancestral properties of the family. It is also not contended that the said properties were now subjected to partition between family members at any point of time.

7. It is trite that in a suit for partition any ancestral or joint family property which is left out can be brought to partition even at the stage of final decree proceedings. This principle is followed to avoid multiplicity of proceedings. Under these circumstances, I am of the opinion that the Trial Court



was fully justified in allowing I.A.No.XXI. It is always open to the defendants to file additional written statement if any and contest the suit, in the event, the application by plaintiff filed under Order VI Rule 17 of CPC is allowed. Therefore, I do not find any good ground to entertain the petition.

8. Accordingly, writ petition is dismissed.
9. All pending I.As do not survive for consideration.

SD/-
(S VISHWAJITH SHETTY)
JUDGE

NMS
List No.: 1 Sl No.: 26