



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 19574 OF 2021 (GM-CPC)

BETWEEN:

SMT.THARAMANI
AGED ABOUT 62 YEARS
W/O D. SAMPATH KUMR
D/O LATE H V NAGAPPA
R/O NO.80, OPP NIRAMAL GYAN SCHOOL
NEW BANK COLONY, KONANAKUNTE
BENGALURU - 560 062.

...PETITIONER

(BY SRI. PUNDIKAI ISHWARA BHAT, ADVOCATE)

AND:

1. SRI. PRASHANTH K
AGED ABOUT 27 YEARS
S/O LATE KRISHNAMURTHY H N
R/AT DEVANGA KALLUR VILLAGE
KASABA HOBLI, GUBBI TALUK
TUMAKURU DISTRICT - 572 216.
2. SRI. HEMANTH KUMAR
MAJOR
S/O D SAMPATH KUMAR
NO.11, 1ST MAIN
BHUVANESHWARINAGAR MAIN ROAD
MANORAYANA PALYA
R T NAGAR POST
BENGALURU - 560 032.





3. SMT. HEMASHRI
MAJOR
D/O D SAMPATH KUMAR
BDA PLOT NO.1496
2ND BLOCK, BANASHANKARI 6TH STAGE
BENGALURU - 560 050.
4. SMT. LALITHAMMA
MAJOR
W/O LATE KRISHNAMURTHY H N
R/AT DEVANGA KALLUR VILLAGE
KASABA HOBLI, GUBBI TALUK
TUMAKURU DISTRICT - 572 216.

...RESPONDENTS

(BY SRI. DHARMESH A, ADVOCATE FOR R1;
vide order dated 16.11.2021
Notice to R2 to R4 stands waived)

THIS WP FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER
DATED 22.09.2021 PASSED BY THE LXV ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE, BENGALURU ON I.A.NO.7 IN
O.S.NO.6796/2015 (CCH-66) AS PER ANNEXURE-A, ETC.,

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



CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated 22.09.2021 passed on I.A.No.7 in O.S.No.6796 of 2015 by the LXV Additional City Civil and Sessions Judge, Bengaluru (for short, 'the Trial Court').

2. Sri.Pundikai Ishwara Bhat, learned counsel appearing for the petitioner submits that the petitioner is defendant No.1 in a suit filed by Respondent No.1 for partition and separate possession. It is submitted that the petitioner filed detailed written statement taking her stand in the suit and later filed an application for amendment of the written statement with intention to provide better particulars in the written statement, which came to be rejected by the Trial Court on the ground that the proposed amendment would take away the admissions in the written statement, it substantially changes the defence, the proposed amendment is sought without due diligence and that it is sought after a period of five years.



It is further submitted that the father of the petitioner has sold schedule 'A' property, gifted schedule 'B' to 'F' properties and bequeathed schedule 'G' properties, which she intends to incorporate in the written statement as better particulars for complete adjudication of the suit. It is also submitted that the affidavit accompanying the application states that by inadvertence, the dates of Gift Deed and Will is not referred and by allowing the application, no prejudice would be caused to the other side. Hence, he seeks to allow the writ petition.

3. Per contra, Sri.Dharmesh.A., learned counsel appearing for Respondent No.1 supports the impugned order of the Trial Court and submits that the petitioner filed written statement on 02.11.2015 and the proposed amendment to the said written statement is filed in the year 2020 and the petitioner was very well aware about the Sale Deed, Gift Deed and alleged Will and conveniently, those facts were suppressed before the Trial Court and when the matter was posted for defendants'



evidence, an application came to be moved for amendment of the written statement. It is further submitted that filing of the application is without due diligence and with the enormous delay, which has been rightly considered by the Trial Court and defendant No.1 has taken specific stand in the written statement that the father of defendant No.1, H.V.Nagappa has acquired the properties and they are his self-acquired properties and now, by way of amendment, the petitioner is trying to state that the properties are her self-acquired properties. More particularly, with regard to the suit schedule 'A' property and such an admission cannot be allowed to overcome by way of amendment. Hence, he seeks to dismiss the writ petition.

4. Heard the arguments on both side and perused the material available on record.

5. The petitioner, who is defendant No.1 in O.S. No.6796 of 2015 filed an application under Order VI Rule



17 of CPC seeking to amend the written statement. The said application was filed on 03.03.2020. Admittedly, the written statement was filed by defendant No.1 on 02.11.2015. The perusal of the proposed amendment indicates that defendant No.1 intends to bring certain facts on record, i.e., father of defendant No.1, Sri.H.V.Nagappa sold schedule 'A' property on 24.01.1998, gifted schedule 'B' to 'F' properties on 07.05.2010 and bequeathed schedule 'G' property by registered Will dated 02.08.2013. It is not in dispute that these facts were within the knowledge of defendant No.1 when the written statement was filed. The perusal of the written statement filed by defendant No.1 on 02.11.2015 at paragraph Nos.5 and 15 makes a reference with regard to the fact that Sri.H.V.Nagappa during his lifetime has transferred some properties to his daughter, i.e., defendant No.1 through Gift Deed and some properties were given to his daughter-in-law, i.e., defendant No.4 who is the mother of the plaintiff. In paragraph No.15, the defendant denied the



averments made in paragraph Nos.9 and 10 of the plaint and there is a reference with regard to the Gift Deed. The co-joint reading of paragraph Nos.9 and 15 makes it clear that defendant No.1/petitioner herein intends to state that Sri.H.V.Nagappa was the owner of the property in question and those are the self-acquired properties of Sri.H.V.Nagappa and he sold/gifted and bequeathed schedule 'A' to 'G' properties in her favour though it is not specifically stated in paragraph Nos.5 and 15 of the written statement. The proposed amendment in my considered view are nothing but furnishing the better particulars and detailing of the facts already narrated in paragraph Nos.5 and 15 of the written statement. The Trial Court under the impugned order has come to the conclusion that the proposed amendment would completely change the defence and take away the admission is a perverse finding as the defendant No.1 is only furnishing better particulars. In my considered view, allowing the application for amendment will not come in



the way of complete adjudication of the dispute between the parties as the proposed amendment would aid the Trial Court in granting or refusing the relief sought for in the plaint. It is open for the plaintiff to raise all the available contentions on law and facts during the course of trial. However, this Court cannot lose sight of the fact that the application is filed belatedly and which has resulted in delay in concluding the proceedings. Hence, the application is required to be allowed on terms.

6. For the aforementioned reasons, I pass the following:

ORDER

- i) Writ petition is allowed.
- ii) The order dated 22.09.2021 passed on I.A.No.7 in O.S.No.6796 of 2015 by the LXV Additional City Civil and Sessions Judge, Bengaluru City (CCJ-66) is set aside.
- iii) Consequently, I.A.No.7 is allowed, subject to the condition that defendant No.1 shall pay cost



of Rs.10,000/- (Rupees Ten Thousand only) to
the plaintiff before the next date of hearing.

It is made clear that this Court has not expressed any
opinion on the merits of the case.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

DH
List No.: 1 Sl No.: 11