



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 34685 OF 2025 (GM-CPC)

BETWEEN:

SMT. INDIRAMMA
W/O GANGADHARA
AGED ABOUT 32 YEARS
RESIDING AT S. KODAGIHALLY,
KASABA HOBLI,
GUBBI TALUK,
TUMAKURU DISTRICT-572216.

...PETITIONER

(BY SRI. RAVIKUMARA B R., ADVOCATE)

AND:



1. JAYALAKSHMAMMA
W/O G.K.KALAPPA,
AGED ABOUT 40 YEARS,
2. G.K. MANUSHREE
D/O G.K.KALAPPA,
AGED ABOUT 21 YEARS,
3. G.K. SHIVA KUMAR
S/O G.K.KALAPPA,
AGED ABOUT 19 YEARS,



ALL ARE RESIDING AT
UNGARA MAJARE GADDEHALLY,
C.S. PURA HOBLI,
GUBBI TALUK,
TUMAKURU DISTRICT-572 216

4. KARIYAMMA @ JAYAMMA,
W/O C.K. RAMAIAH,
RESIDING AT CHIKKAMLALAVADI,
KATTHAGERE HOBLI,
KASABA HOBLI,
GUBBI TALUK,
TUMAKURU DISTRICT-572216.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS IN OS NO. 287/2015 ON THE FILE OF THE COURT OF THE PRL. CIVIL JUDGE AND JMFC GUBBI AND QUASH AND SET ASIDE THE IMPUGNED ORDER DATED 26.09.2025 PASSED ON IA NO. 14, UNDER ORDER VI RULE 17 CPC PERMITTING AMENDMENT OF THE PLAINT (ANNEXURE-E) AND ETC.

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



CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

This petition by defendant No.2 is directed against the impugned order dated 26.09.2025, passed on I.A.No.14 in O.S.No.287/2015, by the Prl.Civil Judge and JMFC, Gubbi, whereby the said application filed by the respondent Nos.1 to 3/ plaintiffs under Order VI Rule 17 of CPC, seeking amendment of the plaint was allowed by the trial Court.

2. Heard learned counsel for the petitioner and perused the material on record.

3. A perusal of the material on record would indicate that respondent Nos. 1 to 3/plaintiffs have instituted the aforesaid suit against the petitioner/defendant No.2 and respondent No.4/defendant No.1, for partition and separate possession of their alleged share in the suit schedule immovable properties and for other properties and for other reliefs. The said suit is being contested by the petitioner and respondent No.4/defendant No.1. After completion of the trial and at the stage of final arguments, the plaintiff filed the instant application IA No.14, seeking



amendment of the plaint by incorporating additional prayers and corresponding pleadings in this regard. The said application having been opposed by the petitioner, the trial Court proceeded to pass the impugned order, allowing the amendment and by directing that the proposed amendment shall not relate back to the date of the suit, but shall be reckoned/considered from the date of the application and by leaving open the question/issue regarding limitation to be decided by the trial Court at the time of final disposal of the suit. While arriving at the said conclusion, the trial Court held as under:

" ORDER ON I.A.NO.XIV

The plaintiff has filed IA No.14 U/O 6 Rule 17 of CPC praying for leave of the court to amend the plaint as indicated therein. The proposed amendment reads as follows :

1. In the prayer column-prayer "a" to be amended as prayer "a1".

2. In the prayer column- "prayer(a) declaration of the plaintiffs legitimate share in the suit schedule properties" be added.

02. In the accompanying affidavit it is stated that the plaintiffs have filed the suit for partition and separate possession of the suit schedule properties. The above suit is posted for arguments on merits. While he is preparing himself for arguments he has come to know that a specific prayer with respect to declaration of their legitimate share in the suit schedule properties is needed. During the life



time of his mother Chikkamma, 2nd defendant namely Jayalakshmma had married and she has seized to become the successor of the Chikkamma. As such the 2nd defendant has not succeeded the suit schedule properties which were belong to his mother Chikkamma. The 2nd defendant is a stranger to the suit schedule properties. She has created concocted will said to have been executed by his mother Chikkamma in her favour. Based on the said registered will the 2nd defendant has managed to obtain the Katha and Pahani of the suit schedule properties into her name. The 2nd defendant has got no share in the suit schedule properties. In order to establish their legitimate share in the suit schedule properties against the 2nd defendant the declaration with respect to the same is necessary. As such the plaintiffs have filed the accompanying application praying this court to permit them to amend the plaint by adding a prayer as given in the accompanying application. They are not introducing new facts to the facts already pleaded by them in the plaint by way of amendment. The amendment sought for is not inconsistent with the facts that are already pleaded. Based on the facts pleaded in the plaint the plaintiffs are seeking the relief of declaration of their share in the suit schedule properties. The amendment sought for does not change the nature of the suit. The amendment sought for is no way caused harm to the other side. The plaintiffs are diligent in conducting the above suit. It is just and necessary to order to allow the accompanying application to permit them to amend the plaint as prayed in the same to avoid the multiplicity of proceedings and to decide the matter in dispute conclusively. No prejudice or hardship would be caused to the other side if the application is allowed or otherwise they will be put to great loss and trouble which could not be compensated in any manner. On these grounds they pray to allow IA no.14.

03. This application is resisted by the defendant No 2 by filing objection. It is stated in the objections that the application filed by the plaintiff is not maintainable either in law or on facts and same is liable to be dismissed. The plaintiffs have filed this application by suppressing all the material facts with ulterior motive and Mala-fide intention only in order to make unlawful gain. The plaintiffs have filed the above suit on 13.08.2015, the defendants have



filed written statement on 22.08.2016 and issues were framed on 28.10.2016, evidence was concluded and case is posted for arguments. On 30.10.2024 the plaintiffs have filed IA No.13 U/o 6 R 17 of CPC and defendant No.2 filed a objection to said application on 08.11.2024. After taking many dates, the plaintiff has withdrawn the said IA No.13 as not pressed without seeking any liberty and thereafter they have filed the above application U/o 6 R 17 of CPC. After all these hears the plaintiff kept quiet and now filed this application for amendment of pleadings. The proposed amendment would change the nature of suit which may be impermissible. The proposed amendment come under the limitation. As per the Limitation Act, if any person wants to see a declaration, the limitation is for 3 years. In the above case after lapse of 9 years, the present application is filed. The affidavit does not reveal anything about the delay of 9 years and the application is very vague. The proposed amendment alters the nature³ of the suit from partition to declaration. This scope of order 6 R 17 of CPC is very limited and the same can be exercised by the court only if the application filed before commencement of trial and if the court come to a conclusion that inspite of due diligence, the party could not raise the matter earlier. In the instant case trial is already completed and therefore no application for amendment can be entertained. Allowing the amendment would cause prejudice to the defendants. The proposed amendment overrides the defense raised by the defendant No.2. On these grounds he prays for dismissal of IA.

04. Heard both side and perused the materials on record.

05. The points that arise for final determination of this application are as follows :

Point No.1 : Whether the proposed amendment is just and necessary to decide the real dispute in controversy between the parties to the suit?

Point No.2: What order?



06. *The findings on the above points are as follows:*

Point No.1: In the Affirmative

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

REASONS

07. *POINT NO.1: The suit is filed seeking for the relief of partition and separate possession of their half share in the suit schedule properties. Admittedly evidence of both the side have been concluded and when the case is posted for arguments on merits, the plaintiffs have filed this application. It is the case of the year 2015. The present application is filed on 21.04.2025 by seeking to add additional relief of declaration of the plaintiffs' legitimate share in the suit schedule properties. The defendant No.2 has filed his written statement on 22.08.2016 by denying the right of the plaintiffs. Though the said fact came to the knowledge of plaintiffs in the year 2016, the plaintiffs have filed the application after lapse of 8 years 8 months. Now question arises whether at this stage this kind of amendment can be allowed? Admittedly the plaintiffs have filed this application at belated stage. But mere delay in filing the amendment application is not fatal to the application. In this regard the decision reported in 2006(4) SCC 385 (Rajesh Kumar Aggarwal V/S K.K.Modi) is relevant. Hence, the hardship if any on account of delay can be met with by imposing cost.*

09. *It is stated further in the objections with regard to limitation that suit is barred by limitation. In this regard decision reported in ILR 2012 Kar 5552 (Ravindrakumar V.S The State of Karnataka) is relevant, where in it is held that when the defendant raises plea of limitation, it would be a fit case to order that amendment should take effect from the date of filing of the application by applying doctrine of relation back. This court relied on another decision reported in ILR 2002 (Kar 5055 (Sampath kumar V/S Ayyakanna and another) where in it is held that mere delay cannot be a ground for refusing an amendment and no strait jacket formula can be laid down for permitting per-trial amendments and when the plaintiff is not debarred*



from instituting a new suit seeking relief of declaration of title and recovery of possession on the same basic facts of the pending suit, in the interest of avoiding multiplicity of suit it would be prudent to permit the plaintiffs to amend the plaint. In the light of the said decisions, the permissibility of the present amendment application is to be considered. Hence it is just and necessary to allow the amendment. The defendant No. 2 has denied the right of the plaintiff at the time of filing the written statement itself, but the plaintiff filed the application for amendment on 21.04.2025 after lapse of 8 years 8 months. Hence, it is proper to order that amendment shall not relate back to the date of the suit, but shall come into operation from the date of filing of present application. Under such circumstances, the point no.1 is answered in the Affirmative.

10. POINT NO.2: For the foregoing reasons I proceed to pass the following;

ORDER

I.A No.14 filed by the plaintiffs under Order 6 Rule 17 of CPC is hereby allowed on cost of Rs.300/-.

The plaintiffs are permitted to amend the plaint as indicated in IA.

This amendment shall not relate back to the date of the suit, but shall come into effect from the date of IA No.14 i.e., from 21.04.2025 for all practical purposes including for the purpose of limitation.

The plaintiffs are directed to furnish fresh valuation slip on the relief sought through proposed amendment."

4. As can be seen from the impugned order, the trial Court has correctly and properly considered and appreciated the materials on record and in the light of principles laid down by



the Hon'ble Apex Court in the case of ***Sampath Kumar -vs- Ayyakannu & Another – AIR 2002 SC 3369, L.C.Hanumanthappa (since dead by L.Rs) -vs- H.B. Shivakumar – AIR 2015 SC 336, Life Insurance Corporation of India -vs- Sanjeev Builders Private Limited and Ors – AIR 2022 SC 4256, Dinesh Goyal @pappu -vs- Suman Agarwal (bindal) & ors. 2024 INSC 726, and Mohammed Ali Vs. Jaya – (2022) 10 SCC 477,*** the trial Court has adequately safeguarded/protected the claim of the petitioner by directing that the proposed amendment shall not relate back to the date of the suit, but shall be reckoned/considered from the date amendment application. and by keeping open the question of limitation to be decided by the trial Court in accordance with law.

5. Upon reconsideration, re-evaluation and re-appreciation of the entire material on record, I am of the considered opinion that the impugned order passed by the trial Court cannot be said to suffer from any illegality or infirmity nor can the same be said to have occasion failure of justice warranting interference by this Court in the present petition as In the exercise of its jurisdiction under Article 227 of the Constitution of India, as held by the Apex Court in the cases of ***Radhey Shyam Vs. Chhabi Nath – (2015) 5***



**SCC 423, K.P. Natarajan Vs. Muthalammal – AIR 2021 SC 3443 and
Mohammed Ali Vs. Jaya – (2022) 10 SCC 477.**

6. It is also pertinent to note that since the petitioner would have an opportunity to file additional written statement to the amended plaint and put forth all contentions, including the contention regarding limitation, it cannot be said that any prejudice would be caused to the petitioner if the proposed amendment was allowed by the trial Court.

7. Under these circumstances I do not find any merit in the petition and the same is hereby **dismissed**. The trial Court is directed to dispose of the suit within a period of six months from the date of receipt of copy of this order.

8. All rival contentions on all aspects including limitation etc., are kept open to be decided by the trial Court and no opinion is expressed on the same.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE