



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S. KINAGI

WRIT PETITION NO.102188 OF 2026 (GM-CPC)

BETWEEN:

SHRI RAMAPPA S/O. YALLAPPA KALASAD,
AGE: 65 YEARS, OCC. AGRICULTURE,
R/O. KADAKOL, TALUK: SAVANUR, HAVERI DISTRICT-581118.
...PETITIONER
(BY SRI. M.R. HIEMATHAD, ADVOCATE)

AND:

1. SMT. PARVATI W/O. UDACHCHAPPA KODEPPANAVAR,
AGE: 42 YEARS, OCC. HOUSEWIFE,
2. KUMAR GIRISH S/O. UDACHCHAPPA KODEPPANAVAR,
AGE: 25 YEARS, OCC. STUDENT,
3. KUMAR KRISHNA S/O. UDACHCHAPPA KODEPPANAVAR,
AGE: 21 YEARS, OCC. STUDENT,
4. UDACHCHAPPA S/O. NILAPPA KODEPPANAVAR,
AGE: 48 YEARS, OCC. AGRICULTURE,
ALL ARE R/O. ICHCHNGI VILLAGE, TALUK: SAVANUR,
HAVERI DISTRICT-581118.
...RESPONDENTS
(BY SRI. VIDYASHANKAR G. DALWAI, ADVOCATE FOR R1 TO R3;
SRI. GANAPATI M. BHAT, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI TO SET ASIDE THE ORDER ON IA NO.21 DATED 19.02.2026 IN O.S.NO.281/2025 PASSED BY THE CIVIL JUDGE AND JMFC, SAVANUR, VIDE ANNEXURE-H AND ETC.

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

MOHANKUMAR
B SHELAR



Digitally signed by
MOHANKUMAR B
SHELAR

Date: 2026.03.27
15:51:44 +0530



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI)

The petitioner has filed this writ petition challenging the order dated 19.02.2026 passed on I.A.No.21 in O.S.No.281 of 2015 by the learned Civil Judge and JMFC, Savanur.

2. Respondent Nos.1 to 3 filed a suit in O.S.No.281 of 2015 for partition and separate possession. The petitioner filed a written statement contending that the suit filed by respondents 1 to 3 is not maintainable for non-joinder of necessary properties. The trial court has not framed any issue on the said point. Thereafter, the petitioner has taken a defence that the suit for partial partition is not maintainable for non-joinder of necessary properties. The trial court framed issues, and the parties went for trial. When the case was posted for arguments, the petitioner filed an application in IA No. 21 under Order XIV Rule 1 of the CPC to frame an additional issue. The said application was opposed by respondents 1 to 3, contending



that the said application is filed at a belated stage, only with an intention to protract the trial. The trial court, after hearing the learned counsel for the parties, rejected the application vide order dated 19.02.2026 with a cost of Rs.500/-. The petitioner, aggrieved by the same, filed this writ petition.

3. Heard the arguments of the learned counsel for the petitioner and the learned counsel for the respondents.

4. The learned counsel for the petitioner submits that the petitioner has taken a specific defence in the written statement that the suit for partial partition is not maintainable. The trial court could have framed an issue on the point of maintainability of the suit for partition and separate possession. He submits that the petitioner has filed an application to frame an additional issue in I.A.No.21. The trial court rejected the application only on the ground that, it is filed at a belated stage. He submits that the petitioner has already laid evidence on the point of



maintainability of the suit regarding the non-joinder of necessary properties, and further undertakes that the petitioner will not lead any evidence on the additional issue to be framed. Hence, on these grounds, he prays to allow the writ petition.

5. *Per contra*, the learned counsel for the respondents submits that the petitioner has filed the said application only with an intention to protract the proceedings. He submits that the petitioner after having understood the pleadings, went for a trial, and has filed this application. He submits that mere non-framing of an issue is not a ground to make an application for framing additional issue. He submits that the trial court was justified in rejecting the application filed by the petitioner. Hence, on these grounds, he prays to dismiss the writ petition.

6. Perused the records and considered the submission of the learned counsel for the parties.



7. Respondent Nos.1 to 3 filed a suit in O.S.No.281/2015 for partition and separate possession, contending that the suit schedule properties are the ancestral/joint family properties of the parties to the suit. The petitioner filed a written statement contending that there are other properties which are not included in the suit schedule to the plaint. The suit for partial partition is not maintainable for non-joinder of necessary properties. Although the petitioner has taken a defence that the trial court has not framed an issue, the parties after having understood the pleadings went for a trial. When the case was posted for arguments, the petitioner filed an application to frame additional issue.

8. The additional issue is relevant for the purpose of deciding the dispute regarding the maintainability of the suit for partial partition. The learned counsel for the petitioner undertakes that the petitioner will not lead any evidence on the proposed additional issue. In view of the same, the trial court committed an error in rejecting IA No.21. The said



issue goes to the root of the case regarding the maintainability of the suit. Therefore, the trial court ought to have framed an issue on the said point. In view of the above discussion, I proceed to pass the following:

ORDER

- i) The writ petition is allowed.
- ii) The impugned order dated 19.02.2026 passed on IA No.21 in O.S.No.281 of 2015 by the learned Civil Judge and JMFC, Savanur is hereby set aside.
- iii) IA No.21 is allowed.
- iv) This court frame the additional issue No.1, i.e., whether the defendant proves that the suit of the plaintiffs is not maintainable for non-joinder of necessary properties.



- v) The trial court shall proceed with the suit, and pass appropriate judgment, in accordance with law, considering additional issue No.1.

Pending applications, if any, shall stand disposed of.

Sd/-
(ASHOK S. KINAGI)
JUDGE

MBS
CT:PA
LIST NO.: 1 SL NO.: 58