



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 26TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE ASHOK S. KINAGI
WRIT PETITION NO. 107917 OF 2025 (GM-CPC)

BETWEEN:

1. SUBHAS @ SUBHAS REDDY
S/O. SIDDAPPA SATARADDI
AGE. 66 YEARS
OCC. AGRICULTURE
R/O. KURUGOVINAKOPPA,
TAL. NARGUND
DIST. GADAG 582207

...PETITIONER

(BY SRI. VITTHAL S. TELI, ADV)

AND:

1. SMT. KASTURIBAI @ LAKKAWWA
W/O BASANAGOUDA PATIL
AGE 70 YEARS,
OCC. HOUSEHOLD WORK
R/O. JAMBAGI KD,
TAL. MUDHOL
DIST. BAGALKOT 587313
2. SOMAPPA
S/O BASAPPA HOTTEPPANAVAR
AGE. 74 YEARS,
OCC. AGRICULTURE
R/O. GULAGAL JAMBAGI KD,
TAL. MUDHOL
DIST. BAGALKOT 587313
3. SMT. SHRIDEVI
W/O RAYANAGOUDA GADI
AGE.64 YEARS,
OCC.AGRICULTURE
R/O.NALATWAD,

VIJAYALAKSHMI
M KANKUPPI



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VIJAYALAKSHMI
M KANKUPPI
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TAL. MUDDEBIHAL
DIST. VIJAYAPUR 586214.

NOTE: GANGAWWA
W/O SIDDAPPA SATARADDI
DELETED AS PER ORDER ON I.A.NO.18.

...RESPONDENTS

(BY SRI. GIRISH A. YADAWAD, ADV FOR RESPONDENTS)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF
CONSTITUTION OF INDIA, PRAYING TO,

I. ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT QUASHING
OF THE ORDER DATED 13.10.2025 ON I.A.NO.66 IN O.S.NO.45/2011
PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, MUDHOL VIDE
ANNEXRUE-L.

II. ISSUE ANY OTHER WRIT OR DIRECTION AS THIS HON'BLE
COURT DEEMS FIT TO MEET THE ENDS OF JUSTICE AND EQUITY.

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



ORAL ORDER

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

1. This writ petition is filed by the petitioner challenging the order passed on I.A. No. 66 dated 13.10.2025 in O.S. No. 45 of 2011 by the learned Senior Civil Judge and JMFC, Mudhol vide Annexure L.

2. Brief facts, leading rise to the filing of this petition are as follows:

3. The petitioner herein filed a suit for declaration and consequential relief of perpetual injunction. The respondents herein filed a written statement raising several grounds. Further, the trial court framed the issues, recorded the evidence of the parties and after having heard the arguments of both sides, adjourned the matter for Judgment. The petitioner herein filed an application in I.A. No. 66 seeking amendment to the plaint. The said application was opposed by the respondents herein by filing their objections. The trial court vide order dated 13.10.2025 rejected the application by passing the impugned order. Aggrieved by the same, the petitioner filed this writ petition.



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

5. Learned counsel for the petitioner submits that due to inadvertence the petitioner could not narrate all the necessary facts relating to the parties and properties. He submits that the amendment sought is necessary as it is a precautionary measure to avoid the future litigations. He submits that these facts were not within the knowledge of the petitioner initially. He submits that the amendment sought in the application ought to have been allowed by the trial court since it is necessary to determine the real question in controversy. He submits that it does not change the nature of the suit and the same is not malafide. He submits that the petitioner has shown the due diligence as required under order 6 Rule 17 of the civil procedure code. The trial court committed an error in rejecting the said application and was not justified in passing the impugned order. Accordingly, on these grounds, prays to allow the petition.

6. *Per contra*, the learned counsel for the respondents submits that the application for amendment is filed by the petitioner at belated stage i.e., when the case was posted for the



pronouncement of judgment. He submits that the petitioner has not shown due diligence as required under the provisions of Order 6 Rule 17 of the Civil Procedure code. He submits that such an application is filed only to protract the proceedings. Hence, he submits that the trial court was justified in passing the impugned order. The impugned order passed by the trial court is just and proper. Accordingly, on these grounds, he prays to dismiss the writ petition.

7. Perused the records and considered the submissions of the learned counsel for the parties.

8. It is undisputed that the petitioner filed a suit for declaration and consequential relief of perpetual injunction against the respondents. The respondents filed a written statement raising several grounds. Further, the trial court framed the issues, recorded the evidence of the parties and after having heard the arguments of both sides, adjourned the matter for Judgment. The petitioner herein filed an application in I.A. No. 66 seeking an amendment to the plaint. The respondents opposed the said application by filing their objections contending that it



has been filed at the belated stage and only to protract the proceedings.

9. Admittedly, the application for amendment in I.A No. 66 is filed by the petitioner when the case was posted for the pronouncement of the judgment. It is settled law that the application seeking the amendment can be allowed before the commencement of the trial, and as per proviso to Rule 17 of order 6 of the CPC, an application for amendment can be allowed after commencement of the trial if the party shows due diligence that he could not have raised the matter before commencement of the trial. However, the question as to whether the proposed amendment changes the nature of the suit and whether the proposed amendment is necessary to determine the real matter in controversy is to be taken care of.

10. From the perusal of the Application filed under order 6 Rule 17 of the code of civil procedure it becomes clear that the plaintiff/petitioner sought to amend the plaint to include the other properties of his late grandfather i.e., Govindappa Ningappanavar since he had no male issues and the petitioner's mother was the only daughter to the said Govindappa Ningappanavar. The suit is



one for declaration and perpetual injunction. However, from the perusal of the impugned order it is evident that the trial has rejected the said application only on the ground that the same is filed at belated stage.

11. The Hon'ble Apex court in the case of ***Life Insurance Corporation Of India v. Sanjeev Builders Private Limited*** reported in ***AIR 2022 SC 4256*** held that the prayer for amendment is to be allowed if the amendment is required for the effective and proper adjudication of the controversies between the parties and to avoid the multiplicity of proceedings provided the amendment does not result in injustice to the other side.

12. In the case on hand, considering the averments made in the amendment application, it is clear that if the application is not allowed it would lead to multiplicity of proceedings as there are many other properties to be included. It is settled law that delay in applying for the amendment alone is not a ground to disallow the prayer. The trial court ought to have allowed the said application. The trial court erred in rejecting the said application. Further, if the application is allowed it does not



result in injustice to the other side. In view of the above, the impugned order deserves to be set aside.

13. Accordingly, I proceed to pass the following order:

ORDER

- i. The Writ Petition is ***allowed***.
- ii. The impugned order dated 13.10.2025 at Annexure L is ***set aside***.
- iii. I. A. No.66 is ***allowed***. The petitioner/plaintiff is permitted to carry out the amendment.
- iv. Pending applications, if any, shall stand ***disposed of***.

Sd/-
(ASHOK S. KINAGI)
JUDGE

AC
CT: BSB
List No.: 1 Sl No.: 60