



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 200621 OF 2026 (GM-CPC)

BETWEEN:

DEVINDRAPPA S/O SHIVAPPA GONDYENOOR,
AGE : 63 YEARS, OCC : AGRICULTURE,
R/O KANNEKOLLUR VILLAGE,
TQ SHAHAPUR, DIST YADGIRI.

...PETITIONER

(BY SRI. MAHANTAPPA S. MANDEWALI, ADVOCATE)

AND:

1. NINGAPPA S/O MALLAPPA BAIRAMADDY,
AGE 77 YEARS, OCC : AGRICULTURE,
R/O KANNEKOLLUR VILLAGE,
TQ SHAHAPUR, DIST YADGIRI – 585 323.

2. BHIMARAY S/O MUDUKAPPA VAGGA,
AGE : 52 YEARS, OCC : AGRICULTURE,
R/O KANNEKOLLUR VILLAGE,
TQ. SHAHAPUR, DIST : YADGIRI – 585 323.

3. MALAPPA S/O MUDUKAPPA VAGGA,
AGE : 54 YEARS, OCC : AGRICULTURE,
R/O KANNEKOLLUR VILLAGE,
TQ.SHAHAPUR, DIST YADGIRI – 585 323.

...RESPONDENTS

(BY SRI. SHIVAKUMAR KALLOOR, ADVOCATE FOR R1;





NOTICE TO R2 AND R3 SERVED)

This WRIT PETITION is FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO A) ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 04.12.2025 PASSED BY THE ADDL. CIVIL JUDGE AND JMFC SHAHAPUR IN OS NO.398/2023 AS PER ANNEXURE-E AND ALLOW THE I.A NO. II FILED U/O 6 RULE 17 OF CPC, IN ENDS OF JUSTICE; B) ISSUE ANY WRIT ORDER OR DIRECTION AS THIS HONOURABLE COURT DEEMS FIT IN THE CIRCUMSTANCES OF THE CASE.

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

This writ petition under Article 227 of the Constitution of India is filed by the plaintiff with a prayer to quash the order dated 04.12.2025 passed on I.A.No.II in O.S.No.398/2023 by the court of the Additional Civil Judge and JMFC, Shahapur.

2. Heard the learned counsel for the parties.

3. Petitioner has filed O.S.No.398/2023 before the jurisdictional Civil Court at Shahapur seeking the relief of declaration of his title and to declare that the compromise decree passed in O.S.No.152/1986 was not binding on him



and also for consequential relief of possession. In the said suit, he had filed I.A.No.2 under Order 6 Rule 17 of Code of Civil Procedure with a prayer to amend the plaint. The said application was opposed by the contesting defendants. The Trial Court vide the order impugned has rejected I.A.No.2. Aggrieved by the same, the plaintiff is before this Court.

4. Learned counsel for the petitioner having reiterated the grounds urged in the petition submits that the proposed amendment will not change the nature of the suit. He submits that application was filed even prior to the defendants filing a written statement and therefore the Trial Court was not justified in rejecting the interlocutory application.

5. *Per contra*, learned counsel for respondents has opposed the petition. He submits that the stand taken in the proposed amendment is totally inconsistent with the original stand taken by the plaintiff in paragraph Nos.4, 5 and 10 of the plaint which he now intends to delete. It is



under these circumstances, the Trial Court has rejected the application. Accordingly, he prays to dismiss the petition.

6. Perusal of the plaint in O.S.No.398/2023 would go to show that in paragraph Nos.4, 5 and 10 of the plaint, it has been pleaded that the plaintiff and his father who had borrowed certain amount from the defendant Nos.2 and 3 and had orally mortgaged the suit schedule property and had handed over the possession of the suit schedule property to them. It is also contended defendant Nos.2 and 3 who had possession of the suit schedule property under the oral mortgage had subsequently colluded with defendant No.1 and had filed O.S.No.152/1986, which was decreed. In the proposed amendment, the plaintiff wants to delete paragraph Nos.4 and 5 and also some lines from paragraph No.10 which relates to the contention that the property was handed over to the defendant Nos.2 and 3 under oral mortgage. In the proposed amendment, the plaintiff has taken a totally different stand and he wants to



plead that the when the plaintiff and his family members had gone to Pune in the year 1972-73 due to drought, the property was unauthorisedly occupied by the defendants. The proposed stand of the plaintiff is totally inconsistent with his pleading which is found in paragraph Nos.4, 5 and 10 of the original plaint.

7. It is trite that plaintiff cannot take inconsistent stand and therefore the Trial Court was fully justified in rejecting the application filed seeking amendment of the plaint. It is also relevant to note here that as on the date the order impugned was passed, written statement was already filed on behalf of the defendants and they had categorically denied that the suit schedule property was handed over to them by the plaintiff and his father under oral mortgage. Under the circumstances, I do not find any illegality or irregularity in the order impugned which calls for interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India. Accordingly, the following :



NC: 2026:KHC-K:3619
WP No. 200621 of 2026

ORDER

Writ petition is ***dismissed.***

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SN
List No.: 1 Sl No.: 4