



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 201094 OF 2023 (GM-CPC)

BETWEEN:

1. KUMARI SARASWATHI D/O BASAVANNEYYA
AGE. 18 YEARS,
2. KUMARI PARVATI D/O BASAVANNEYYA
AGE. 16 YEARS,
3. VISHWANATH S/O BASAVANNEYYA
AGE. 11 YEARS,

PETITIONER NO. 2 AND 3 ARE MINORS,
REPRESENTED BY THEIR NEXT FRIEND,
I.E., THEIR NATURAL MOTHER,
I.E., SMT. SRIDEVI W/O BASAVANNEYYA,
AGE. 35 YEARS,
OCC. HOUSEHOLD,
R/O. JALIHAI,
TQ. SINDHANUR, DIST. RAICHUR.

...PETITIONERS

(BY SRI. MAHANTESH PATIL.,ADVOCATE)

AND:

1. KUMARASWAMY S/O KARIBASAYASWAMY
AGED ABOUT 65 YEARS, OCC. AGRICULTURE,





2. SMT. MALLAMMA W/O KUMARSWAMY
AGED. 63 YEARS, OCC. AGRI., AND HOUSEHOLD,
3. GHANAMATADAYYA S/O KUMARSWAMY
AGED 45 YEARS, OCC. AGRI.,
4. BASAVANNEYA S/O KUMARSWAMY
AGED 40 YEARS, OCC. AGRI.,
5. KARIBASAYYA S/O KUMARSWAMY
AGED 35 YEARS, OCC. AGRI.,

ALL ARE R/O. JALIHAI VILLAGE,
TQ. SINDHANUR,
DIST. RAICHUR-584101.

...RESPONDENTS
(BY SRI. ARUNKUMAR AMARGUNDAPPA, ADV FOR R1 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, A) SET ASIDE THE IMPUGNED ORDER DATED 31.01.2023 PASSED BY THE LEARNED SENIOR CIVIL JUDGE AND JMFC, SINDHANUR IN OS NO. 182/2017, VIDE ANNEXURE- E AN CONSEQUENTLY ALLOW I.A NO. 5 FILED BY THE PETITIONERS, B) PASS SUCH OTHER ORDERS OR DIRECTIONS AS THIS HON'BLE COURT DEEMS JUST AND PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE AND ALLOW THIS WRIT PETITION.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY



ORAL ORDER

Plaintiffs are before this Court under Article 227 of the Constitution of India seeking the following reliefs:

"a) Set aside the impugned order dated 31.01.2023 passed by the learned Senior Civil Judge and JMFC, Sindhanur in OS No. 182/2017, vide Annexure- E and consequently allow I.A No. 5 filed by the petitioners, b) Pass such other orders or directions as this Hon'ble Court deems just and proper under the facts and circumstances of the case and allow this writ petition"

2. Heard learned counsel for the parties.

3. The petitioners have filed OS No.182/2017 before the jurisdictional Civil Court seeking the relief of partition and separate possession of the schedule A and B properties. In the said suit, the contesting defendants have filed a detailed written statement on 25.04.2018. Based on the rival pleadings issues were framed by the Trial Court and when the suit was at the stage of recording plaintiffs' evidence, I.A. No.V was filed on behalf of the plaintiffs under Order VI Rule 17 r/w Section 151 of CPC



with a prayer to permit them to amend the plaint by incorporating additional paragraph No.6-A, immediately after paragraph No.6 and additional prayer No.2-A, immediately after prayer No.2. Permission was also sought to amend paragraph No.8 of the plaint, which provides for valuation of the suit schedule property. In the proposed prayer No.2-A, a relief is sought to declare two partition deeds as not binding on the minor plaintiffs. The said application was opposed by the contesting defendants by filing objections. The Trial Court vide impugned order has rejected I.A.No.V. Being aggrieved by the same, the plaintiffs are before this Court.

4. Perusal of the material on record would go to show that plaintiffs are minors, who are represented by their natural guardian i.e. their mother and the reliefs sought for in the suit is for partition and separate possession of schedule A and B properties. The contesting defendants have filed written statement opposing the suit and they have also raised a contention that there was a



prior partition of the suit schedule properties between the family members under two partition deeds dated 26.04.2012 and 28.01.2013. It appears that subsequent to such a contention raised in the written statement of the contested defendants, the plaintiffs have filed an application under Order VI Rule 17 r/w Section 151 of CPC with a prayer to amend the plaint by incorporating an additional prayer, wherein declaration is sought that the aforesaid two partition deeds are not binding on the minor plaintiffs. The other amendments, which are sought to be made in the plaint are ancillary to the proposed amended prayer. The Trial Court on the ground that the application was filed belatedly after commencement of the trial, has rejected by I.A.No.V, filed under Order VI Rule 17 r/w Section 151 of CPC.

5. The Hon'ble Supreme Court in the case of **LIC v. Sanjeev Builders Pvt. Ltd. an Another** reported in **(2022) 16 SCC 1** so has observed that the Courts should be liberal while considering applications filed under Order



VI Rule 17 r/w Section 151 of CPC, more so to avoid multiplicity of litigation. Hyper technical approach of the Courts in considering the amendment application is also consistently deprecated.

6. In the present case, the amendment sought for by the plaintiffs does not change the nature of the suit. The Trial Court has failed to appreciate that the suit is filed by the minors, who are represented by their natural guardian i.e. their mother and therefore, a liberal approach ought to have been made by the Trial Court, while considering the application. If, the contesting defendants are put to any inconvenience, they can be monetarily compensated for the same.

7. Under the circumstances, I pass the following:

ORDER

- i. The Writ Petition is ***allowed***.
- ii. The impugned order dated 31.01.2023 passed by the learned Senior Civil Judge and JMFC,



Sindhaur in OS No. 182/2017, vide Annexure- E is quashed and consequently IA No.V, in OS No. 182/2017 is allowed, subject to payment of cost of Rs.1,000/-, that shall be paid by the plaintiffs to the contesting defendants, before the Trial Court on next date of hearing. It is needless to state that the defendants are always at liberty to file additional written statement, if they are so advised.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE