



**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 1<sup>ST</sup> DAY OF JUNE, 2026**

**BEFORE**

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

**WRIT PETITION NO.201300 OF 2025 (GM-CPC)**

**BETWEEN:**

1. GURUPADAPPA  
S/O MALLAPPA DARGA,  
AGE: 59 YEARS, OCC: SERVICE  
R/O NIDONI TQ. AND DIST. VIJAYAPUR-586113.
2. CHANDRASHEKHAR  
S/O MALLAPPA DARGA,  
AGE: 53 YEARS, OCC: AGRICULTURE,  
R/O NIDONI, TQ. AND DIST. VIJAYAPUR-586113.
3. MAHADEVI W/O YAMANAPPA BIJAPUR,  
AGE: 50 YEARS, OCC: HOUSEHOLD WORK  
R/O BBALESHWAR NAKA, VIJAYAPUR-586113.
4. MANGALAWWA  
W/O APPANNA KAMATAGI,  
AGE; 49 YEARS, OCC: HOUSEHOLD  
R/O ATHANI, TQ. BALAGAUM-591304.
5. LAKSHMIBAI /O MALLAPPA DARGA  
AGE: 76 YEARS, OCC: HOUSEHOLD WORK,  
R/O NIDONI, TQ. AND DIST. VIJAYAPUR-591304.

...PETITIONERS

(BY SRI. VINAYAK APTE, ADVOCATE)

**AND:**





1. DUNDAPPA S/O MAHADEVAPPA DARGA,  
AGE: 70 YEARS, OCC: AGRICULTURE,  
R/O NIDONI, TQ. VIJAYAPUR-586113.
2. RAMESH S/O MAHADEVAPPA DARGA,  
AGE: 46 YEARS, OCC: AGRICULTURE,  
R/O NIDONI, TQ. VIJAYAPUR-586113.
3. TANGEWVA W/O SHIVANAND NIMBAL,  
AGE: 55 YEARS, OCC: HOUSEHOLD,  
R/O NEAR BABLESHWAR NAGAR,  
VIJAYAPURA-586113.

...RESPONDENTS

(BY V/O DATED 01.06.2026 NOTICE TO R1 & R2  
IS HELD SUFFICIENT;  
NOTICE TO R3 D/W)

THIS WRIT PETITION IS FILED UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 24.01.2025 PASSED IN R.A.NO.28/2016 ON THE FILE OF I ADDL. SENIOR CIVIL JUDGE VIJAYAPURA ON I.A NO.II AS PER ANNEXURE-F AND REJECT THE APPLICATION IA NO.II FILED U/SEC 6 RULE 17 OF CPC AS PER ANNEXURE-D IN ENDS OF JUSTICE.

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

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

**ORAL ORDER**

1. Service of notice to respondent Nos.1 and 2 is held sufficient. Notice to respondent No.3 is dispensed with.



2. This petition by the appellants in R.A.No.28/2016 is directed against the impugned order dated 24.01.2025 whereby, the application i.e. I.A.No.2 filed by the respondents under Order VI Rule 17 of CPC., seeking amendment of the plaint was allowed by the First Appellate Court.

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

4. As stated supra, while service of notice to respondent Nos.1 and 2 has been held to be sufficient, service of notice to respondent No.3 is dispensed with at the risk of the petitioner.

5. A perusal of the material on record will indicate that, the respondent instituted a suit in O.S.No.456/2008 against the petitioners/defendants for declaration, possession, permanent injunction and other reliefs in relation to the suit schedule immovable property. The said suit having been contested by the petitioners/defendants, the trial Court proceeded to pass a Judgment and decree dated



29.02.2016 decreeing the suit filed by the respondents/plaintiffs against the petitioners/defendants.

6. Aggrieved by the Judgment and decree passed by the trial Court, the petitioners/defendants have preferred an appeal in R.A.No.28/2016 which is pending before the First Appellate Court.

7. During the pendency of the appeal, the respondents filed an application i.e. I.A.No.2 under Order VI Rule 17 of CPC., seeking amendment of the plaint which was opposed by the petitioner and culminated in the impugned order whereby, the trial Court allowed the application i.e. I.A.No.2 filed by the respondents and permitted the amendment of the plaint by keeping the appeal pending.

8. Aggrieved by the impugned order passed by the First Appellate Court in R.A.No.28/2016 allowed I.A.No.2 filed by the respondents for amendment of the plaint, the petitioners/defendants are before this Court by way of the present petition.



9. A perusal of the material on record including the impugned order will indicate that, though there are several claims and rival contentions urged by both sides on the merits of the main appeal in R.A.No.28/2016, the First Appellate Court has clearly committed a patent and procedural illegality and infirmity in allowing I.A.No.2 without disposal of the main appeal which is contrary to the well settled principles governing adjudication of civil appeals inasmuch as when an application for amendment of the pleadings is filed before the appellate Court, the proper/correct procedure to be adopted would be to consider the said application along with the main appeal; further without disposing of the main appeal, it is impermissible in law to independently/separately dispose of the application by still keeping the main appeal pending as held in various Judgments including the Judgment of this Court in the case of **Smt. Gangabai W/o. Lesu Lamani Vs. Vagu S/o. Hiru Lamani**, in **W.P.No.201152/2021**.

10. Under these circumstances, without expressing any opinion on the merits/demerits of rival contentions, as



regards the main appeal as well as on I.A.No.2, I deem it just and appropriate to set aside the impugned order and remit the matter back to the First Appellate Court for reconsideration of I.A. No.2 as well as the main appeal on merits in accordance with law.

11. Accordingly, the following:

**ORDER**

- (i) The writ petition is allowed;
- (ii) The impugned order is hereby set aside;
- (iii) The matter is remitted back to the First Appellate Court to reconsider I.A.No.2 and dispose of the same along with main appeal, in accordance with law;
- (iv) All rival contentions on all aspects of the matter are kept open and no opinion is expressed on the merits/demerits of the rival contentions.

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