



**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 3<sup>RD</sup> DAY OF JUNE, 2026**

**BEFORE**

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

**WRIT PETITION NO.202652 OF 2025 (GM-CPC)**

**BETWEEN:**

SMT. KEVALABAI  
D/O LATE SUBHANRAO @ SUBHASHRAO,  
W/O VISHAMBAR,  
AGED ABOUT 60 YEARS,  
OCC: AGRICULTURE AND HOUSEHOLD,  
R/O BEERI-B, TQ. BHALKI,  
DIST. BIDAR,  
NOW RESIDING AT HIPPALGAON,  
TQ. AND DIST. BIDAR-585401.

...PETITIONER

(BY SRI. RAVI B. PATIL, ADVOCATE)

**AND:**

PADMINIBAI D/O LATE SUBHANRAO @ SUBHASHRAO  
(W/O KESHAVRAO)  
SINCE DECEASED BY HER LRS

1. VENKATRAO S/O KESHAVRAO  
AGED ABOUT 50 YEARS, OCC: AGRICULTURE,  
R/O BEERI (B) VILLAGE, TQ. BHALKI,  
DIST BIDAR-585401.
2. SMT. KALAVATHI D/O LATE SUBHANRAO @  
SUBHASHRAO  
(W/O DADARAO)  
AGED ABOUT 65 YEARS,  
OCC; H H WORK,





R/O NEAR GOVT. HIGH SCHOOL,  
BHALKI TOWN,  
DIST. BIDAR-585401.

3. SMT.KAMALABAI  
D/O LATE SUBHANRAO @ SUBHASHRAO  
(W/O RAVANRAO),  
AGED ABOUT 55 YEARS,  
OCC: H H WORK,  
R/O HIPPALGAON,  
TQ. AURAD-B, DIST. BIDAR-585401.
4. SMT.GAYABAI W/O LATE MADHAVRAO,  
AGED ABOUT 55 YEARS,  
OCC: HH WORK,  
R/O BEERI-B, TQ. BHALKI,  
DIST. BIDAR-585401.
5. SMT.MANGALA D/O LATE MADHAVRAO (W/O  
RAMDAS)  
AGED ABOUT 40 YEARS, OCC: H H WORK,  
R/O HALABARGA TQ. BHALKI,  
DIST. BIDAR-585401.
6. SMT. KALPANA D/O LATE MADHAVRAO  
(W/O EKANATH)  
AGED ABOUT 38 YEARS,  
OCC: HH WORK, R/O KALLUR VILLAGE  
TQ UDAGIR,  
DIST. LATUR (MS)-413517.
7. SMT. MANUBAI D/O LATE MADHAVRAO (W/O  
ARAVIND)  
AGED ABOUT 36 YEARS, OCC: HH WORK,  
R/O AMBEGAON TQ. AHMEDNAGAR,  
DIST. (MAHARASHTRA STATE)
8. SMT. ASHA D/O LATE MADHAVRAO (W/O  
SHESHRAO)  
AGED ABOUT 34 YEARS, OCC: HH WORK,  
R/O UDAGIR TQ. UDAGIR,



DIST LATUR (MS)-413517.

9. SMT. RUPALI D/O LATE MADHAVRAO  
AGED ABOUT 32 YEARS,  
OCC: H H WORK,  
R/O BEERI-B, TQ. BHALKI,  
DIST. BIDAR-585401.
10. SMT. RANI D/O LATE MADHAVRAO  
AGED ABOUT 30 YEARS, OCC: HH WORK,  
R/O BEERI-B, TQ. BHALKI,  
DIST. BIDAR-585401.
11. SUBHASH S/O LATE MADHAVRAO  
AGED ABOUT 26 YEARS, OCC: AGRICULTURE,  
R/O BEERI-B, TQ. BHALKI,  
DIST. BIDAR-585401.
12. GANESH S/O LATE MADHAVRAO  
AGED ABOUT 24 YEARS, OCC: AGRICULTURE,  
R/O BEERI-B, TQ. BHALKI,  
DIST. BIDAR-585401.
13. SMT. PRABHAVATI  
2<sup>ND</sup> WIFE OF LATE MADHAVRAO  
AGED ABOUT 54 YEARS,  
OCC: HOUSEHOLD,  
R/O JOLADPAKA VILLAGE  
TQ. BHALKI, DIST. BIDAR-585401.
14. SMT.KARUNAVATI  
D/O LATE MADHAVRAO  
(W/O GOVIND RAO)  
AGE: MAJOR, OCC: HOUSEHOLD,  
R/O DAVARGAON VILLAGE  
TQ. BHALKI, DIST BIDAR-585401.

...RESPONDENTS

(BY SRI. D. P. AMBEKAR, ADVOCATE FOR R13 & R14;  
V/O DATED 13.10.2025 NOTICE TO R1 TO R12 D/W)



THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) A WRIT OF CERTIORARI ANY OTHER WRIT OR DIRECTION TO QUASH THE IMPUGNED ORDER DATED 29-07-2025 PASSED ON I.A NO. VI FILED UNDER ORDER VI RULE 17 OF CPC IN OS NO.47/2019 BY THE COURT OF SENIOR CIVIL JUDGE AND JMFC AT BHALKI AS AT ANNEXURE-F, AND CONSEQUENTIALLY TO ALLOW THE APPLICATION AS PRAYED FOR,. B) PASS SUCH OTHER ORDER/S AS THIS HON'BLE COURT DEEMS FIT TO GRANT IN THE CIRCUMSTANCES OF THE CASE,.

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

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

**ORAL ORDER**

This petition by the plaintiff in OS No.47/2019 is directed against the impugned order dated 29.07.2025 whereby the application IA No.VI filed by the petitioner/plaintiff under Order VI Rule 17 read with Section 151 of CPC seeking amendment of the plaint by incorporating additional prayer was rejected by the Trial Court.

2. A perusal of the material on record will indicate that the petitioner/plaintiff instituted the aforesaid suit against the respondents/defendants for partition and



separate possession of her alleged share in the suit schedule immovable properties and other reliefs. The said suit is being contested by the defendants. After commencement of examination in chief of plaintiff (PW-1), the petitioner/plaintiff filed the instant application seeking amendment in the prayer column as "Declaration that the ex-parte judgment and decree dated 16.04.2005 passed in OS No.196/1998 on the file of Senior Civil Judge, Bhalki and subsequent judgment and decree dated 25.02.2006 passed in RA No.10/2003 on the file of Fast Track-II Court Bidar, camp at Bhalki, are null and void obtained by defendant No.13 by playing fraud upon the court, and they are not binding upon the plaintiff".

3. The said application having been opposed by and contested only by respondent Nos.13 and 14, who were defendant Nos.13 and 14 in the suit, while the remaining defendant Nos.1 to 12 did not oppose the said application and hence, notice the said defendant Nos.1 to



12, who are arrayed as respondent Nos.1 to 12 has been dispensed for the purpose of present order.

4. After hearing the parties, the Trial Court proceeded to pass the impugned order rejecting the application, aggrieved by which, the petitioner is before this Court by way of the present petition.

5. A perusal of the material on record including the impugned order will indicate that the Trial Court has failed to consider the well settled principles governing amendment of pleadings without appreciating that the proposed amendment was relevant and necessary for the purpose of adjudication of the issues in controversy between the parties. Since, the proposed amendment is merely sought to incorporate an additional prayer without seeking any other amendment, it is just and proper to allow the said amendment sought for by the petitioner, particularly when no prejudice would be caused to the respondents, who would be entitled to file additional written statement to the amended plaint. In addition there



to, the defence of limitation would also be available in favour of the respondents, in relation to the amended prayer by directing that the proposed amendment shall not lead back to the date of the suit, but shall be reckoned/considered from the date of the amendment application having been filed i.e., on 23.02.2023 and by leaving open the question of limitation to be decided by the Trial Court at the time of final disposal of the suit along with other issues.

6. Under these circumstances, it is clear that the impugned order passed by the Trial Court declining/refusing to permit the petitioner to amend the plaint is clearly contrary to the principles laid down by the Hon'ble Apex Court in the cases of ***Sampath Kumar v Ayyakannu and Ors.*** reported in ***AIR 2002 SC 3369***, ***L.C. Hanumanthappa v H.B. Shivakumar*** reported in ***(2016) 1 SCC 332*** and ***Life Insurance Corporation of India v Sanjeev Builders Private Limited and Ors*** reported in ***AIR 2022 SC 4256*** and judgment of co-



ordinate Bench of this Court in the case of ***Shri Mohammadrafi and another V. Bandenawaz and ors.*** in ***WP No.108512/2025***. Consequently the impugned order passed to the Trial Court deserves to be set aside and the application for amendment deserves to be allowed.

7. In the result, I pass the following:

**ORDER**

- i. The writ petition is hereby ***allowed***. Impugned order dated 29.07.2025 passed in OS No.47/2019 on I.A.No.VI is hereby set aside.
- ii. IA No.VI filed by the petitioner is hereby allowed, subject to the condition that the proposed amendment shall not relate back to the date of the suit, but shall be reckoned/considered from the date of the



amendment application being filed i.e. on  
23.02.2023.

iii. Liberty is reserved in favour of the respondents to file additional written statement and take up all defence, including the defence of limitation.

iv. All rival contentions on all aspects of the matter are kept open and no opinion is expressed on the merits/demerits of the case.

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

NJ  
LIST NO.: 1 SL NO.: 88  
CT:SI