



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 27TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION NO.200943 OF 2023 (GM-CPC)

BETWEEN:

1. ARATHI G.
D/O. RAMESH GADDALE,
AGE: 27 YEARS,
OCC: SOFTWARE ENGINEER,
R/O. H NO. 7-6-225, MIG-6,
KHB COLONY, VASAVI NAGAR,
RAICHUR – 584 101.
2. UMA GADDALE
D/O RAMESH GADDALE,
AGE: 27 YEARS,
OCC: SOFTWARE ENGINEER,
R/O: H.NO.7-6-225, MIG-6,
KHB COLONY, VASAVI NAGAR,
RAICHUR – 584 101.

...PETITIONERS

(BY SRI. MAHANTESH PATIL, ADVOCATE)

AND:

1. G. SURESH BABU
S/O. LATE G. EARANNA RAO
@ CHOTA VEERANNA
AGE: 65 YEARS,
OCC: RETIRED EMPLOYEE OF
STATE BANK OF HYDERABAD,
PERMANENT R/O RAICHUR &
NOW RESIDING AT FLAT NO.804,





7TH FLOOR, RAM SRIDHAR APARTMENTS
16TH MAIN, BTM IIND STAGE,
BENGALURU – 560 076.

2. D. LAKSHMI BAI
W/O. LATE GOPAL RAO &
D/O. LATE G. EARANNA RAO
@ CHOTA VEERANNA
AGE: 66 YEARS,
OCC: HOUSEHOLD,
R/O: C/O D.MURALIDHAR RAO,
D.NO.7/24A, 1ST FLOOR,
KAVADIGERI STREET,
KURNOOL – 518 002.
(ANDRAPRADESH)
3. MOHAMMED JAMEEL AHAMED
S/O MOHAMMED BASHEER AHAMED,
AGE: 25 YEARS,
OCC: BUSINESS,
R/O: H NO.2-2-158 & 159,
ZAIN APARTMENTS,
ANDROON QUILLA,
RAICHUR – 584 101.
4. PRAMOD NAHAR
S/O. LATE MADAN LAL NAHAR,
AGE: 40 YEARS,
OCC: BUSINESS,
R/O: H.NO.THAKUR NIVAS,
1ST FLOOR, NEAR JAIN TEMPLE ROAD,
RAICHUR – 584 101.
5. RAKESH @ RICKEY
S/O C. H. VENKATESH,
AGE: 25 YEARS,
OCC: PROPRIETOR OF FASHION PARK,
OPP: JANATHA DARSHINI HOTEL,
HARIHAR ROAD, RAICHUR – 584 101.
6. VIKRAM GADALE
S/O. RAMESH GADALE,



AGE: 32 YEARS,
OCC: NIL,
R/O: H.NO.7-6-225, MIG-6,
KHB COLONY, RAICHUR – 584 101.

7. M/S YASEEN HOME APPLIANCE
SHOP NO. 11-5-36,
OPP: JANATA DARSHINI HOTEL,
HARIHAR ROAD, RAICHUR – 584 101.
THROUGH ITS PROP., MOHD.YASEEN
S/O. ABDUL KHADAR,
AGE: 40 YEARS.

...RESPONDENTS

(BY SRI. AJAYKUMAR A.K., ADVOCATE FOR R1;
NOTICE TO R2 TO R7 DISPENSED WITH
V/O DATED 16.03.2023)

THIS WRIT PETITION IS FILED UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 17.01.2023 IN O.S.NO.222/2013 VIDE ANNEXURE-G ON I.A.NO.19 IN SO FOR AS REJECTING PROPOSED AMENDMENT SOUGHT IN POINT NO.4 WITH RESPECT TO DELETION OF "AT PARA NO.12, IN LINE NO.14, AFTER THE WORD DEFT.NO.2 ON 1-8-1980" IS TO BE DELETED. SO ALSO IN THE SAME PARA, IN LINE NO.17, AFTER THE WORD ITEM NO."1" IS TO BE SUBSTITUTED BY "2" THEREAFTER, I THE SAME PARA, IN LINE NOS 19 TO 25 TILL THE WORD PROPERTY IS TO BE DELETED" PASSED BY THE LEARNED ADDL. SENIOR CIVIL JUDGE JMFC-I RAICHUR AND CONSEQUENTLY ALLOW THE IA NO. 19, IN THE INTEREST OF JUSTICE. AND ETC



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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL ORDER

(PER: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA)

Heard Sri.Mahantesh Patil, learned counsel for the petitioners as well as Sri.Ajay Kumar A.K., learned counsel for respondent No.1.

2. This writ petition is filed seeking the Court to set aside the order that is rendered by the Court of Additional Senior Civil Judge, Raichur in I.A.No.19 in O.S.No.222/2013 dated 17.01.2023.

3. The matrix of the proceedings are as under:

- i. Respondent No.1 herein filed a suit i.e., O.S.No.222/2013 which is pending before the Court of Additional Senior Civil Judge, Raichur, for partition and separate possession of the suit schedule properties and for declaration of



registered gift deed dated 19.10.2013 as null and void.

- ii. Defendant No.1 filed her written statement.
- iii. The writ petitioners who are defendant Nos.3 and 4 to the suit adopted the written statement that was filed by defendant No.1.
- iv. Pending suit, defendant No.1 passed away.
- v. When the Trial was in progress, writ petitioners filed I.A.No.19 seeking the Court to permit them to amend the written statement that was filed by deceased defendant No.1 and was adopted by them.
- vi. By way of amendment, the writ petitioners sought for correction of typographical errors in the written statement of defendant No.1 and also for deletion of averments in line Nos.19 to 25 at paragraph-12 of the written statement of deceased defendant No.1.



vii. The Court through the impugned order allowed the application in part.

viii. So far as typographical errors are concerned, permission was granted to correct those errors. However, the request for deletion of a portion of written statement was disallowed.

4. Learned counsel for the petitioners submits that the averments made in line Nos.19 to 25 of paragraph-12 of the written statement of deceased defendant No.1 are contrary to the contentions raised in the remaining part of the written statement. Deleting the portion which is inconsistent to the other part does not in any way cause prejudice to the plaintiff to the suit. Therefore, the Court should have accorded permission for deletion of a portion of the written statement as sought for, but the Court did not do so. Learned counsel also submits that the principles that are required to be adopted while dealing with the application filed under Order VI Rule 17 of CPC by the plaintiff cannot be applicable in *stricto sensu* to the



defendants for amendment of their pleadings. In this regard, learned counsel relies upon the decision that is rendered by the Hon'ble Apex Court in *Usha Balashaheb Swami and Others vs. Kiran Appaso Swami and Others* which is reported in (2007) 5 SCC 602.

5. Vehemently opposing the submissions thus made, learned counsel for respondent No.1 submits that deceased defendant No.1 through her written statement took specific stand indicating her version with regard to the merits of the matter. The writ petitioners adopted the written statement that was filed by the deceased defendant No.1 in toto. However, at the fag end of trial, they moved an application for amendment of pleadings. So far as typographical errors in the written statement that was filed by deceased defendant No.1 are concerned, the Court allowed the pleaded amendments. However, the pleas taken cannot now be negated through amendment and thus, the application to that extent stood dismissed and hence, the writ petition is not maintainable.



6. It is not in dispute that by the date of filing of application for amendment, the evidence on plaintiff's side was completed and evidence on defendants side was in progress. When a party to the suit intends to adopt the pleadings of another party, the minimum expectation is that such adoption would be after going through the contents of those pleadings. It is not the case of the writ petitioners herein that they were not assisted by a counsel, while they filed a memo for adoption of written statement that was filed by deceased defendant No.1. In the case on hand, writ petitioners seek to delete certain portion of the written statement that was filed by deceased defendant No.1. When a party has filed certain pleadings and the party who filed those pleadings is no more, his version in the form of pleadings cannot be deleted at a later stage on an application being filed by the other party. The deletion of certain portion of written statement of deceased defendant No.1, though the said written statement was adopted by other defendants, i.e., writ petitioners herein, it would amount to deletion of the



portion of written statement of a deceased party which is impermissible under law.

7. Therefore, this Court is of the view that the trial Court rightly rejected the prayer of the writ petitioners for amendment of written statement of the deceased defendant No.1 so far as contents at line Nos.19 to 25 at paragraph-12 of the written statement are concerned. Therefore, this Court is of the view that the writ petition is devoid of merits.

8. Resultantly, writ petition stands dismissed.

**Sd/-
(Dr.CHILLAKUR SUMALATHA)
JUDGE**

VNR
List No.: 1 Sl No.: 59
Ct:NI