

KABC010183122011



**IN THE COURT OF THE LXIII ADDL.CITY CIVIL &
SESSIONS JUDGE (CCH-64) AT BENGALURU**

Dated this the 6th day of September 2023

: PRESENT :

Sri.A.V.Patil, B.Com., LL.B.,
LXIII ADDL.CITY CIVIL & SESSIONS
JUDGE, BENGALURU CITY.

OS No.6464/2011

Plaintiffs

- 1.** Ravi Kumar
S/o Muniraju,
Aged about 38 years.
No.30, 8th cross III main
Ramamurthy Nagar, Bangalore-16
- 2.** Chandrasekhar
S/o Muniraju ,
Aged about 36 years,
No.30, 8th Cross, 3rd Main,
Ramamurthy Nagar, Bangalore-16

(By Sri.K.V.T., Advocate)

- VS -

Defendants

- 1.** M.Subramani
S/o Late Venkatagiriappa,

Aged About 49 Years,
Kundalahalli Village, K.R.Puram
Hoblibangalore East Taluk,
Bangalore-37

- 2.** Gurappa.N @ Venkatagiriappa
S/o Late H Narayanappa,
Aged About 47 Years,
Kundalahalli Village, K.R.Puram
Hobli, Bangalore East, Taluk,
Bangalore-37
- 3.** Poornima.K
W/o D T Srinivas
Aged About 35 Years,
No.11, Devasandra, K.R.Pura Hobli
Bangalore-16

(D1 by Sri.CTD, Advocate)

PARTIES TO IA

**Applicant/
Defendant No.3**

- 3.** Poornima.K
W/o D T Srinivas
Aged About 35 Years,
No.11, Devasandra, K.R.Pura Hobli
Bangalore-16

- VS -

**Opponents/
Plaintiffs**

Ravi Kumar and another

ORDERS ON IA FILED U/S 151 CPC

The Learned Counsel for defendant No.3 has filed
this seeking permission to file additional written

statement for the reasons stated in the accompanying affidavit. Subbaiah A T/SPA holder of defendant No.3 has stated that the plaintiff had filed O.S. No.7680/2002 against defendant No.1 and 2 and their mother Lakshamma. The said suit was decided on merits. Defendant No.3 has purchased the property from Laxshamma and defendant No.1 and 2 and the plaintiffs cannot maintain the suit in respect of the same property. In the 2nd week of March 2023, it was noticed that pursuant to amendment of plaint and in view of the plaintiff having sought for declaration of title he had filed additional written statement on 19.01.2017 stating that the suit is not maintainable. Now he has advised that it would appropriate to explain and further substantiate my contention with regard to maintainability by filing additional written statement.

2. The Advocate for plaintiff opposed to IA by filing objection statement. He denied all the allegations made in the IA as well as in the accompanying affidavit filed along with it. The defendant No.3 has taken defence in the additional written statement is after thought that is after dismissal of the IA U/o 7 rule 11 of CPC. Since the said application is dismissed now defendant No.3 cannot

take U turn by filing application for the very same facts. To file additional written statement the defendant No.3 has not made out any grounds. The defendant No.3 has filed this IA only to protract the proceedings without any valid reasons and grounds and hence prayed to reject the IA.

3. The Advocate for defendant No.3 has placed reliance on a citation reported in *(2009) 15 SCC 528 (Olympic Industries V.Mulla Hussainy Bhai Mulla Akberally and others)*

4. Heard the arguments and placed the materials on records. Points that would arise for my consideration are as follows:

1) Whether the defendant No.3 has made out sufficient grounds to accord permission to file additional written statement as prayed in the IA filed u/s 151 of CPC?

2) What Order?

5. My findings on the above points are as under:

Point No.1 : *In the negative*

Point No.2 : *As per final order for the following:-*

REASONS

6. At the outset it is necessary to note that the plaintiffs have filed the suit against the defendant Nos. 1 to 3 for the relief of declaration of permanent injunction and other reliefs. The present IA is filed when the matter is posted for cross examination of DW1.

I have gone through the judgment relied on by the learned Counsel for defendant No.3 and kept in mind the view taken in the said judgment while coming to the final conclusion.

7. The suit is of the year 2011, the defendant No.3 has filed the written statement on 25.04.2013. Subsequently defendant No.3 has filed the additional written statement in the month of August 2017 and this is second IA is filed seeking permission to file additional written statement on 23.03.2023. It means this IA is filed almost after lapse about 10 years. As rightly submitted by Learned Counsel for plaintiff absolutely nothing has been stated as to why the application was not filed at an earliest point of time. This IA is filed by defendant No.3 without assigning any grounds. As it could be seen from the order sheet defendant No.3 is in habit of filing IA's one after another only to protract the proceedings without any sufficient grounds. In the opinion of this Court absolutely nothing

has been made out to grant permission to file additional written statement and this IA appears to have filed to protract the proceedings. I do not find any merits in the IA. It is devoid of merits. To curtail such act of defendant No.3, the IA shall have to be dismissed with cost. Hence I answer this point in the **Negative**.

8. **Point No.2**:- In view of my findings on point No.1, I proceed to pass the following:

ORDER

IA filed by the defendant No.3 u/s 151 of CPC is hereby dismissed with cost of Rs.500/-.

Payment of cost is condition precedent.

(Typed by the Stenographer on my dictation, the transcript revised and then pronounced by me in open Court on this the 6th day of September 2023)

(A.V.PATIL)

LXIII ADDL.CITY CIVIL & SESSIONS
JUDGE (CCH-64), BENGALURU CITY.