



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU  
DATED THIS THE 5<sup>TH</sup> DAY OF SEPTEMBER, 2023  
BEFORE  
THE HON'BLE MR JUSTICE S.G.PANDIT  
WRIT PETITION NO. 13998 OF 2020 (GM-CPC)**

**BETWEEN:**

SMT. JAYANTHI @ RANGAMMA,  
W/O CHANNEGOWDA,  
AGED ABOUT 45 YEARS,  
R/AT SREEDEVINAGAR,  
BAGUR ROAD, CHANNARAYAPATNA TOWN,  
HASSAN - 573 116.

...PETITIONER

(BY SRI. MANJUNATH PRASAD H. N., ADVOCATE)

**AND:**

1. SMT. PUTTAMMA,  
W/O LATE. NANJAPPA,  
AGED ABOUT 62 YEARS.

RESPONDENT NO.1 DEAD.  
RESPONDENT NO.2 TO 4 ARE ONLY LEGAL  
HEIRS OF R1.  
V/C/O DATED:15.07.2021.

2. SMT. SAROJA,  
W/O SRI. NAGARAJ,  
AGED ABOUT 42 YEARS.
3. SMT. KUMARI,  
W/O SRI. MANJUNATH,  
AGED ABOUT 37 YEARS.
4. SMT. GEETHA,





W/O SRI. BALAKRISHNA,  
AGED ABOUT 32 YEARS.

RESPONDENT NO.1 TO 4 ARE  
R/AT GOORAHALLI EXTENSION,  
CHANNARAYAPTANA TOWN AND TALUK,  
HASSAN - 573 116.

...RESPONDENTS

(BY SRI. BELAVANGALA BASAVARAJU, ADVOCATE FOR R2 AND R3;  
VIDE ORDER DATED 15.07.2021 R2 - R4 TREATED AS  
LR'S OF DECEASED R1;  
VIDE ORDER DATED: 16.01.2023 SERVICE IN R/O R4 IS  
HELD SUFFICIENT)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS IN EX  
CASE NO.16/2018 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC  
AT CHANNARAYAPATNA AND PERUSE THE SAME AND SET-  
ASIDE/QUASH THE ORDER DATED 21.11.2019 PASSED ON I.A.NO.3  
IN EX CASE NO.16/2018 ON THE FILE OF SENIOR CIVIL JUDE AND  
JMFC AT CHANNARAYAPATNA PRODUCED AT ANNEXURE-E AND  
CONSEQUENTLY ALLOW THE I.A.NO.3.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN  
'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner decree holder in Execution petition  
No.16/2018 on the file of Sr. Civil Judge and JMFC,  
Channarayapatna is before this Court aggrieved by the  
rejection of I.A.No.3 filed under Order 6 Rule 17 CPC seeking  
amendment to the draft sale deed.



Heard the learned counsel Sri. Manjunath Prasad H.N., for petitioner and learned counsel Sri.Belavangala Basavaraju, for respondent Nos.2 and 3.

2. Petitioner decree holder filed O.S.No.13/2009 for specific performance of contract and the said suit came to be decreed under judgment and decree dated 16.12.2017. Said decree was confirmed by this Court in RSA No.191/2019 dated 08.02.2023.

Decree schedule property is as follows:-

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ಚನ್ನರಾಯಪಟ್ಟಣ ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಗೂರನಹಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿರುವ ಸರ್ವೆ ನಂ. 65/8 ರಲ್ಲಿರುವ 0.17 ಗುಂಟೆ ಜಮೀನಿಗೆ ಪೈಕಿ 0.06½ ಗುಂಟೆ ಜಮೀನಿಗೆ ಚೆಕ್ಕುಬಂದಿ:-

ಪೂರ್ವಕ್ಕೆ	-	ಪ್ರತಿವಾದಿಯರ ಉಳಿಕೆ ಜಮೀನು
ಪಶ್ಚಿಮಕ್ಕೆ	-	ರಾಜಣ್ಣನ ಜಮೀನು
ಉತ್ತರಕ್ಕೆ	-	ಕಾಂತಮ್ಮನ ಜಮೀನು
ದಕ್ಷಿಣಕ್ಕೆ	-	ಎಂ.ಕೆ.ಮಂಜಮ್ಮ ಮತ್ತು ಪ್ರತಿವಾದಿಯರ ಜಮೀನು

3. To execute the above stated decree, the petitioner herein filed Execution No.16/2018 on the file of Senior Civil Judge, Channarayapatna. The Executing Court ordered for execution of the sale deed through Court Commissioner. The



Court Commissioner returned the said draft sale deed stating that Sy.No.65/8 has been phoded and for the present it is Sy.No.65/43 standing in the name of Sri. M.S. Manjunath @ Late Sombegowda. Based on the said information, the petitioner decree holder filed application under Order 6 Rule 17 CPC. The prayer in the application reads as follows:-

**ಸಿ.ಪಿ.ಸಿ. ಆದೇಶ 6 ನಿಯಮ 17 ರಡಿ ತೀರ್ಪುಧನಿಯ ಪರ ಪ್ರಾರ್ಥನೆ.**

"ಈ ಕೂಡ ಹಾಜರು ಮಾಡಿರುವ ಪ್ರಮಾಣ ಪತ್ರಿಕೆಯಲ್ಲಿ ಕಂಡ ಕಾರಣಗಳಿಗಾಗಿ ಘನ ನ್ಯಾಯಾಲಯವು ಕೃಪೆ ಮಾಡಿ ತೀರ್ಪುಧನಿಯು ಸಲ್ಲಿಸಿರುವ ಕ್ರಯ ಪತ್ರದ ಕರಾರು ಪ್ರತಿಯಲ್ಲಿ ಸ್ವತ್ತನ್ನು ವಿವರಿಸಿರುವ ಕಡೆ ದಾವಾ ಸ.ನಂ. 65/8 ರಲ್ಲಿನ 17 ಗುಂಟೆ ಖುಷ್ಕಿ ಜಮೀನಿನ ಪೈಕಿ ಎಂಬ ಪದಗಳ ನಂತರ "ಹಾಲೀ ಸ.ನಂ 65/43 ರಲ್ಲಿ ಎಂ.ಎಸ್. ಮಂಜುನಾಥ ಬಿನ್ ಸೊಂಬೇಗೌಡರ ಹೆಸರಿನಲ್ಲಿರುವ 0.07.04.00 ಗುಂಟೆ, ಜಮೀನಿನ ಪೈಕಿ 0.06.08.00 ಗುಂಟೆ" ಎಂದು ತಿದ್ದುಪಡಿ ಮಾಡಬೇಕಾಗಿರುವುದು ನ್ಯಾಯಾಭಿವೃದ್ಧಿ ದೃಷ್ಟಿಯಿಂದ ಅತ್ಯಾವಶ್ಯಕ ಎಂದು ತೀರ್ಪುಧನಿಯ ಪರ ಪ್ರಾರ್ಥನೆ."

4. In the affidavit accompanying I.A.No.III, the petitioner decree holder stated that in terms of the report of the Court Commissioner, i.e., Sy.No.65/8 has been phoded and the new Survey number is 65/43 which stands in the name of M.S. Manjunath @ Sombegowda, amendment to draft sale deed became necessary.



5. Learned counsel for the petitioner would contend that the judgment debtors during the pendency of the suit in violation of the injunction order transferred the property so as to defeat the claim of the petitioner/plaintiff/deed holder. Learned counsel would submit that if the amendment sought is not allowed, the plaintiff/petitioner herein would not be in a position to enjoy the fruits of the decree.

6. Per-contra, learned counsel for respondent Nos.2 and 3 would submit that the present amendment only to the draft sale deed would not be maintainable, unless the suit schedule as well as decree schedule is amended. Learned counsel would further submit that the amendment sought would entirely change the suit schedule property itself and in the present execution proceedings, such amendment is not permissible, unless enquiry is conducted. In that regard, without providing opportunity to the person in whose name the entire property stands as on this day, the amendment cannot be allowed. Further, learned counsel would also submit that the amendment is not only with regard to survey number, but it is with regard to extent as well as the name. Thus, learned counsel would pray for dismissal of the writ petition.



7. Having heard the learned counsel for the parties and on perusing the writ petition papers, I am of the view that no ground is made out to interfere with the order passed by the trial Judge, rejecting the amendment application filed by the petitioner decree holder. Unless the petitioner decree holder gets amended the plaint schedule as well as decree schedule, mere amendment to the draft sale deed would not be permissible. The Executing Court is required to execute the decree as it is and the executing Court cannot go beyond the decree. The observations made by the Executing Court in that regard is correct and needs no interference. Moreover, Order 6 Rule 17 CPC would not be applicable to amend the draft sale deed as prayed in the application. Thus, keeping open the contentions of the parties, the writ petition is disposed of. It is open for the petitioner to avail any other appropriate remedy available under law.

**SD/-  
JUDGE**

MN  
List No.: 1 Sl No.: 52  
CT:PH