SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

V Harish vs G Manjunath

V Harish vs G Manjunath

SooperKanoon Citation : sooperkanoon.com/1860715

Court : Karnataka Orders

Decided On : Jan-31-2024

Judge : S.R.Krishna Kumar

Appeal No. : WP/2126/2024

Appellant : V Harish

Respondent : G Manjunath

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY, 2024 BEFORE THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR WRIT PETITION NO. 2126 OF 2024 (GM-CPC) BETWEEN:

1. V HARISH S/O LATE R. VENKATA REDDY, AGED 39 YEARS,

2. V LOKESH REDDY @ GIRISH S/O LATE R. VENKATA REDDY AGED 41 YEARS R/AT CHIKKA TIRUPATHI VILLAGE, PETITIONERS (BY SRI. B RAMESH, ADVOCATE) AND:

1. G MANJUNATH

S/O LATE GOVINDASWAMY NAIDU, AGED 46 YEARS, Digitally signed
2. G KRISHNA MURTHY by VANDANA S S/O LATE GOVINDASWAMY NAIDU, Location: HIGH COURT AGED 43 YEARS OF KARNATAKA

BOTH ARE R/AT CHIKKA TIRUPATHI VILLAGE, RESPONDENTS THIS W P IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DTD 03.01.2024 PASSED IN O.SNO.1/2019 ON IA NO.4 FILED UNDER ORDER VI RULE 17 R/W SECTION 151 OF CPC BY THE PRINCIPAL CIVIL JUDGE AT JMFC, MALUR WHICH IS PRODUCED AND MARKED AS ANNEXURE-G BY DISMISSING THE APPLICATION FILED BY THE PLAINTIFFS I.E., I.A.NO.4. THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING: -2-

This petition by defendants 2 and 3 is directed against the

impugned order dated 03.01.2024 passed on I.A.No.4 in O.S.No.1/2019 by the Prl.Civil Judge and JMFC, Malur, whereby the said application filed by the respondents - plaintiffs under

Order 6 Rule 17 r/w Section 151 CPC seeking amendment of the

plaint was allowed by the trial court.

2. Heard learned counsel for the petitioners and perused the material on record.

3. The material on record discloses that the respondents-

plaintiffs instituted the suit for permanent injunction and other reliefs against the petitioners-defendants in relation to the suit schedule property. After commencement of evidence, respondents- plaintiffs filed the instant application seeking amendment of plaint and the same having been opposed by the petitioners-defendants, the Trial Court proceeded to pass the impugned order allowing the application for amendment, aggrieved by which, the petitioner is

before this Court by way of the present petition.

-3-

4. A perusal of the material on record including the

impugned order will indicate that while the Trial Court has come to the correct conclusion that the proposed amendment deserves to be allowed, particularly in the light of the decisions of the Apex Court in the cases of L.C. HANUMANTHAPPA (SINCE DEAD BY HIS LRs) Vs. H.B. SHIVAKUMAR - (2016) 1 SCC 332 and SAMPATH KUMAR Vs. AYYAKANNU AND ANOTHER - AIR 2002 SC 3369, I deem it just and appropriate to dispose of this petition by clarifying that the proposed amendment shall not relate back to the date of the suit, but shall be reckoned/considered from 23.11.2022, on which date amendment application was filed by respondents-plaintiffs. Under these circumstances, I am of the view that the impugned order does not suffer from any illegality or infirmity nor can the same be said to have occasioned failure of justice warranting interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India as held by the Apex Court in the case of Radhey Shyam Vs. Chhabi Nath reported in (2015) 5 SCC 423.

-4-

5. In the result, I pass the following:-

(i) Petition is hereby disposed of without interfering with the impugned order passed by the trial court.

(ii) It is however made clear that the proposed amendment shall not relate back to the date of the suit but shall be reckoned / considered from the date on which the I.A.4 was filed i.e., from 23.11.2022.

(iii) Liberty is reserved in favour of the petitioners-defendants to file additional written statement to the amended plaint and raise all defences including limitation etc.

(iv) All rival contentions on all aspects including limitation etc., are kept open to be decided by the Trial Court and no opinion is expressed on the same. Sd/- JUDGE Srl.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com