

KAHS020011482020



Presented on : 01-12-2020

Registered on : 02-12-2020

IN THE COURT OF
PRL. SENIOR CIVIL JUDGE AND CJM AT HASSAN

DATED THIS THE 15th DAY OF OCTOBER 2025

:PRESENT:

Sri. Puttaswamy K.M., B.Sc., LL.M.,
Prl. Senior Civil Judge and CJM
Hassan

ORIGINAL SUIT NO.212/2020

Plaintiff : Sri. K.E. Lingaraju dead by Lrs

(By Sri.A.R.G., Advocate)

- Versus -

Defendants: Sri.Chinnaswamy dead by Lrs and others

(D1(a) Absent, D1(b) to (e) by Sri.
H.S.M.M. Advocate, and
D-2 by Sri. J.U.S- Advocate)

PARTIES IN I.A.No. 20**Applicant** : Sri. Bharath K.L**- Versus -****Opponents** : Sri.Chinnaswamy dead by Lrs and others

I	Provision under which the application is filed	Order 6 Rule 17 R/w Section 151 of CPC
II	Relief Sought for	For amendment
III	The date on which the application is filed	03.09.2025
IV	Number of the application	I.A.No.20
V	The date on which the objections are filed by different opponents	10.09.2025
VI	The date on which the orders were passed on the said application	15.10.2025

ORDER ON I.A. NO.XX FILED UNDER ORDER 6 RULE 17**R/W SEC. 151 OF C.P.C :**

The appellant/plaintiff No.1(a) has filed this application seeking amendment of his plaint averments as stated in the application.

2. The applicant/plaintiff No.1(a) has sworn to an affidavit in support of his application and stated that, his father Late K.E. Lingaraju had filed this suit against the defendants seeking the relief of Specific Performance of Contract. Further, it is submitted that, his father died during the pendency of the suit and when the case is posted for evidence on behalf of the plaintiff, at that time the legal heirs of plaintiff came to know that the pleadings with respect to ready and willing has not been averred in the plaint and it is submitted that, his father Late K.E. Lingaraju paid an earnest amount of Rs.5,65,000-00 and he was balance of Rs.2,35,000-00 only and his father was ready and willing to perform of his part of contract. Even after the death of their father, the legal heirs are ready and willing to perform of their part of contract, but the said pleadings have not been narrated in the plaint and accordingly, it is prayed to allow the application.

3. On the other hand, the learned counsel for the defendant No.1 has filed his objection to the said application and contended that, the said application is not maintainable. It is specifically contended that, the applicant has not made out grounds to allow the application and it cannot be said that, the father of the applicant deceased K.E. Lingaraju was ready and willing to perform of his part of contract, really if at all if, he was

ready and willing to perform of his part of contract, certainly, he would have narrated the same in his plaint averments. Further, it is specifically contended that, the amendment sought by the applicant is hopelessly barred by law of limitation and the proposed amendment is seeking nearly after lapse of 5 years from the date of suit. As such, it is contended that, it would change the nature of the case and accordingly, the applicant has not made out grounds to allow the application and accordingly, it is prayed to dismiss the application.

4. Heard the arguments on both sides and perused the records.

5. The following point arises for my consideration.

1. Whether the applicant has made out grounds to allow the application?

2. What order?

6. My findings on the above point are as follows:

Point No.1 : In the Negative

Point No.2 : As per the final order

for the following:

REASONS:

7. **Point No.1** : I have perused the entire materials available on record and on perusal of the same, it is noticed that, the deceased K.E. Lingaraju filed this suit against the deceased Chinnaswamy and Sri. Rangaswamy seeking the relief of Specific Performance of Contract. No doubt that in a suit for Specific Performance of Contract, basic ingredients to be narrated in the plaint is ready and willingness. But, the deceased plaintiff never pleaded the same in his plaint averments. On perusal of the records it is noticed that, the said plaintiff Sri. K.E. Lingaraju died on 12.04.2022 and nearly after lapse of 3 years the present applicant has come up with this application seeking amendment of his pleadings. It also goes to show that the present applicant also not diligent in filing the present application.

8. As rightly contended by the defendants, the question of proposed amendment would go to the root of the case as well as it touches the point of limitation. The applicant has not come up with this application within the period of limitation. It clearly goes to show that, the applicant is not diligent in filing the present application. Though the father of the applicant died on 12.04.2022, but the present application has been filed on 03.09.2025 nearly after lapse of 3 years.

9. As per Order 6 Rule 17 of CPC, the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions. The proviso clause of Order 6 Rule 17 of CPC reads as thus,

“Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial”.

10. Here in this case, when the case is posted for plaintiff evidence, the applicant has come up with this application. As such, the proviso clause clearly says that the application for the amendment shall not be allowed after trial has commenced. The object of the rule is to avoid multiplicity of the suit, as such if the plaintiff is permitted to amend his plaint, the nature of the suit will be changed and it would lead to multiplicity of proceedings. The rules of procedure are intended to be a handmaid to the administration of justice. A party cannot be refused relief merely because of some mistake, negligence,

inadvertence or infraction of the rules of procedure. The applications has to be allowed if the Court is satisfied, but here in this case, the applicant has not made out satisfactory grounds to allow his applications. The deceased plaintiff never pleaded in his plaint averments as to the proposed amendment during his life time, now nearly after lapse of 3 years from the date of death of original plaintiff, the applicant wants to amend his plaint as stated in his applications, which leads to multiplicity of proceedings. The applicant with due diligence has not come up with the present applications.

11. The amendment should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct and the amendment would cause him any injury beyond compensation by courts. It is an established principle of law that a suit must be tried on the original cause of action. Sometimes it happens that the original relief claim becomes inappropriate or infructuous or the law changes in the meanwhile affecting the rights of the parties. In such case, the Court may allow amendment of the pleading to bring on record the changed circumstances. But here in this case, the applicant has not shown the changed circumstances. Accordingly, I am of the considered opinion that the applicant

has not made out grounds to allow the applications. Hence, ***I answered point No.1 in the negative.***

12. **Point No.2:** In the result, I proceed to pass following order.

ORDER

***✍. I.A.No.20 filed by the applicant is
hereby rejected with cost of Rs. 100-00.***

(Dictated to the stenographer and got typed by her, corrected and initialed by me and then pronounced by me in the open court on this the 15th day of October 2025)

***(Puttaswamy K.M.)
Prl. Senior Civil Judge and CJM
Hassan***