

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE,
GOKAK

Present: Sri. Mahadev Kanatti, B.Com.,LL.B.
I Addl. Senior Civil Judge, Gokak

Dated, this the 18th day of September-2025

O.S.No.355/2021

Plaintiff : 1. Smt. Mayawwa W/o Late Bhimappa Gadad

V/s

Defendants: 1. Smt. Chandrawwa W/o Late Bhimappa Gadad
and others.

PARTIES TO I.A. No.IX

Applicants/

Original Plaintiff : 1. Smt. Mayawwa W/o Late Bhimappa Gadad,
Age: 56 years, Occ: Agriculture and Household,
R/o: Basalingundi, Tal: Gokak, Dist: Belagavi.

(By Shri. S.G.T., Advocate)

V/s

Opponent/Orgl.

Deft No.1: 1. Smt. Chandrawwa W/o Late Bhimappa Gadad,
Age: 40 years, Occ:Household,
R/o: Basalingundi, Tal: Gokak, Dist: Belagavi.

(R/by Sri.S.T.Y., Advocate.,)

ORDER ON IA NO.9

The instant application is filed by the plaintiff under Order VI Rule 17 of CPC for amending the plaint by adding one more para to her earlier pleadings that “during the lifetime of the husband of the plaintiff he was given statement before the Deputy Tahsildar, Arabhanvi stating that Mayyavva W/o Bhimappa Gadad (i.e., plaintiff) is his first wife and he is paying monthly maintenance of Rs.400/- to her”.

2. It is stated in the affidavit accompanying the application sworn by the plaintiff that, at time of the filing the suit she had not has the certified copy of the said statement and now she got the same and going to amend the plaint as stated above. It is further stated that, proposed amendment is very much necessary to prove her case. On these grounds, prays to allow the application.

3. On the other hand, the application is opposed by the defendant No.1 contending that, the plaintiff has filed the false suit claiming to be the first wife of the deceased Bhimappa. The deceased Bhimappa had a first wife by name Laxmavva and through her got a female child by name Lakkavva. After the death of the Laxmavva he got married with the defendant No.1 and

defendant No.2 and 3 are their children. The present application is filed at a belated stage after commencement of trial, if the proposed amendment is allowed it will change the nature of the suit and the plaintiff has not produced the document in support of her application. On these grounds, prays to reject the application with costs.

4. Heard both sides.

5. The following points that arise for consideration of the Court are;

1. Whether the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties and despite due diligence the plaintiff could not raise the same before commencement of trial?

2. What Order?

6. Findings of this Court on the above points are:

Point No.1: In the Affirmative.

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

:REASONS:

7. **Point No.1:-** The present suit is one for the relief of partition and separate possession filed by the plaintiff claiming her half

share in the suit properties on the count that, she is the legally wedded wife of deceased Bhimappa, the defendant No.1 to 3 are the second wife and children of the deceased Bhimappa. The defendants in order to deprive the legitimate share of the plaintiff trying to mutate their name to the suit properties by giving false varadi before the revenue authority behind the back of the plaintiff. Hence, the plaintiff constrained to file the present suit.

8. On the other hand, the defendants have denied the very relationship with the deceased Bhimappa. As per the pleadings the plaintiff claiming that she is the first wife and by way of amendment she is adding one more para with the documentary evidence and to prove her relationship with the deceased Bhimappa. The proposed amendment neither change the nature of the suit nor introduce a new cause of action. On the other hand, it will help the Court to adjudicate the matter in controversy between the parties. The present case is at pre-trial stage, the present application is filed at a belated stage as the suit is filed in the year 2021 but that itself is not ground to reject the application and it can be compensated by imposing some costs on the plaintiff, which

would meet the ends of justice. Being that opinion, the point under consideration is answered in the affirmative.

9. Point No.2:- In view of the findings arrived on the point No.1, this Court proceed to pass the following:

ORDER

IA No.9 filed by the plaintiff under Order VI Rule 17 CPC is hereby allowed on costs of ₹.200/-.

The plaintiff permitted to amend the plaint as sought for in the application and furnish the amended plaint on next date.

(Dictated to the stenographer typed by steno, revised, corrected and then pronounced by me in the open Court on this the 18th day of September, 2025)

Sd/-
(Mahadev Kanatti)
I Addl. Senior Civil Judge,
Gokak.