



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, GOKAK.**

BEFORE: Sri.Umesh S. Atnure,

B.Com.LL.B.(Spl)

O.S. No.391/2022

DATED THIS 03rd DAY OF JANUARY-2026

Plaintiffs:

1. Smt. Gangavva W/o. Ningappa Jhond,
Age: 50 years, Occ: Agri & Household,
R/o: Shirur, Tq: Hukkeri, Dist: Belagavi.
2. Smt. Shobha W/o. Basavanni Kedanoori,
Age: 40 years, Occ: Agri & Household,
R/o: Hatarki, Tq: Hukkeri, Dist: Belagavi.
3. Doddavva W/o. Basavaraj Nandaganvi
Since deceased R/by her LRs.
- 3A. Smt. Laxmi W/o. Sanju Janamatti,
Age: 23 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak.
- 3B. Smt. Deepa W/o. Umesh Pasappagol,
Age: 29 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak.
- 3C. Ku.Seema D/o. Basavaraj Nandagoan,
Age: 16 years, Occ: Student,
R/o: Mallapur P.G., Tq: Gokak.
- 3D. Ku.Abhishek S/o. Basavaraj Nandagoan,
Age: 13 years, Occ: Student,
R/o: Mallapur P.G., Tq: Gokak.
(Plf No. 3C and D are minors R/by their
M/G natural mother 3A)

V/s

- Defendants:
1. Krishnappa S/o. Shankareppa Badakundri,
Age: 58 years, Occ: Agri & Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
 2. Shivappa S/o. Shareppa Badakundri,
Age: 45 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
 3. Mahanda W/o. Somashekhar Badakundri,
Age: 28 years, Occ: Agri & Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
 4. Shrudha D/o. Somashekhar Badakundri,
Age: 10 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
 5. Shreyas S/o. Somashekhar Badakundri,
Age: 07 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
- (The defendants No.4 & 5 are minors R/by
their mother defendant No.3)
6. Pundalik S/o. Shankareppa Badakundri,
Age: 38 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
 7. Umesh S/o. Shankareppa Badakundri,
Age: 35 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.

8. Mahantesh S/o. Krishnappa Badakundri,
Age: 38 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
9. Darshan S/o. Krishnappa Badakundri,
Age: 19 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
10. Smt. Laxmi W/o. Krishnappa Badakundri,
Age: 52 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.
11. Vasant @ Satteyagouda Lakkagouda Patil,
Age: 38 years, Occ: Household,
R/o: Mallapur P.G., Tq: Gokak,
Dist: Belagavi.

PARTIES TO I.A.No.IX U/o VI RULE 17 R/W/ SECTION
151 OF CPC

- Applicants: 1. Smt. Gangavva W/o. Ningappa Jhond
and others
.....Applicants/Plaintiffs
- Vs.
- Opponents: 1. Krishnappa S/o. Shankareppa Badakundri
and others
.....Opponents/Defendants

ORDERS ON I.A.No.IX FILED U/o VI RULE 17 R/W
SECTION 151 OF CPC.

The plaintiffs have filed this present application U/o VI Rule 17 R/W Section 151 of CPC at IA.No.IX praying to permit them to amend the plaint as per the proposed amendment.

2. In the accompanying affidavit, the plaintiff No.1 contended that they have filed this suit for partition and separate possession. Recently the defendant No.1 and 8 have filed their written statement and in their written statement they have contention that there was a compromise decree passed in OS.No.277/2019 in between defendant No.1, 8 to 10 in respect of R.S.No.83/2 measuring 06 acres 31 guntas. So they have come to know about the said fact only after filing the written statement by the defendant No.1 and 8 to 10 as the said compromise decree is not binding on them hence, they have filed this present application. If the application is allowed no loss or hardship would be caused to the other side. If not they will be put to irreparable loss and injury. Hence, prayed to allow the application.

3. The defendants No.8 to 10 filed their objections to this application by denying entire contentions of the plaintiffs. Further

they have contended that they have filed the written statement on 22.08.2024 since then till filing of this present application the plaintiffs were well knowing about the compromise decree passed in OS.No.277/2019 in respect of R.S.No.83/2 inspite of it the plaintiffs have kept quite and only after commencing the trial the plaintiffs have filed this present application. As such, this present application is not maintainable one. Further they contended that the plaintiff No.1 has examined himself as PW1 and got mark the documents. As per the Ex.P4 wherein it is clearly forthcoming that based on the compromise decree passed in OS.No.277/2019 the entries were effected and this fact was very well within the knowledge of the plaintiffs since from the year 2024 but the plaintiffs have not filed this present application immediately after coming to know the said fact and filed this application at a belated stage. Hence, this application is not maintainable one. If the application is allowed they will be put to irrespirable loss and injury. Hence, prayed to reject the application.

4. The counsels for defendants No.1, 2 and 6 filed memo adapting the objections filed by the counsel for the defendants No.8 to 10.

5. Heard both side. Peruse the application and records.

6. The points that arise for my consideration are;

1. Whether the plaintiffs have made out grounds to permit them to amend the plaint as per the proposed amendment?

2. What order?

7. My findings on the above points are:

POINT No.1: In the Affirmative

POINT No.2: As per final order

for the following;

REASONS

8. **POINT No.1:** When this present suit is posted for further examination-in-chief of PW1, the plaintiffs have filed this present application. This is a suit for partition and separate possession of plaintiffs 1/7th share in the suit schedule properties. The plaintiffs have contended that themselves and defendants are constituted Hindu joint family and the suit schedule properties are their ancestral joint family properties as the defendants are denied to effect the partition they have filed this suit. Now it is the contention of the plaintiffs that after filing written statement by the defendant No.1, 8 to 10, they came to know that the defendants

No.1 and 80 to 10 have filed suit in OS.No.277/2019 and got entered into compromise in respect of R.S.No.83/2 measuring 06 acres 31 guntas. Now the plaintiffs are contending that the said compromise decree is not binding on them as such, they were constrained to file this application.

9. By perusing the records it goes to shows that in the written statement of defendants No.1, 8 to 10, they took the contentions that they have filed suit in OS.No.277/2019 in respect of R.S.No.83/2 measuring 06 acres 31 guntas and they have compromise the said suit. By perusing the records it shows that at the time of filing of this suit the plaintiffs are not having knowledge about the said suit as such, they have not taken the contention with regard to the stated in the proposed amendment at the time of the filing of this suit. In view of the contentions taken by the defendant No.1, 8 to 10, the plaintiffs are constrained to file this present application. Further by perusing the plaint schedule it is clear that the land bearing R.S.No.83/2 is one of the suit property involved in this suit in that property is also the plaintiffs have sought share. Under such circumstances, it is just and necessary for the plaintiffs to get amend their plaint as per the proposed amendment.

10. It is the contentions of the defendants that they have filed their written statement on 22.08.2024 and the plaintiffs have also led their evidence and they have produce the RTC extract of R.S.No.83/2 as per Ex.P4 wherein it is forthcoming that the fact of compromise entered in OS.No.277/2019 but the plaintiffs have not filed this application at the earlier point of time and filed at the belated stage. Hence, this application is not maintainable one. No doubt, the defendants No.1, 8 to 10 have filed their written statement on 22.08.2024 and in that written statement they have clearly took the contention with regard to suit in OS.No.277/2019. It is clear that even though the plaintiffs are knowing about the compromise decree passed in OS.No.277/2019 they have not filed this application immediately after filing the written statement by the defendant No.1, 8 to 10. It shows that the plaintiffs are not diligent in prosecuting their case but the facts stated in the proposed amendment is just and necessary to decide this suit if by imposing suitable cost on the plaintiffs, if the plaintiffs are permitted to amend the plaint as per the proposed amendment then it will not cause any loss or injury to the defendants and further the proposed amendment does not change the nature of the suit and cause of action and it will also not cause any loss or injury

to the defendants. Hence, I am of the considered view that the plaintiffs have made out grounds to permit them to amend the plaint as per the proposed amendment. **Hence, I answered the Point No.1 in the Affirmative.**

11. **POINT No.2:** For the aforesaid findings, I proceed to pass the following:

ORDER

The application filed by the plaintiffs U/o
VI Rule 17 R/W section 151 of CPC filed at
I.A.No.IX is hereby allowed on cost of
Rs.300/-.

The plaintiffs are permitted to carryout
necessary amendment to the plaint and
furnish the amended plaint on or before next
date of hearing.

For cost and furnishing amended plaint by
14.01.2026.

(Dictated to the Stenographer, transcribed by him on computer,
revised, corrected and then pronounced by me in the open Court on
this the 03rd day of January, 2026.)

(Umesh S. Atnure)
Prl. Senior Civil Judge Gokak.