



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

BEFORE: Sri.Umesh S. Atnure,

B.Com.LL.B.(Spl)

O.S. No.376/2023

DATED THIS 10th DAY OF FEBRUARY-2026

Plaintiff: 1. Trishila W/o. Anil Upadhya,
Age: 41 years, Occ: Household,
R/o: Mahaveer Nagar, Konnur,
Tq: Gokak, Dist: Belagavi.

V/s

Defendants: 1. Appasab S/o. Baramappa Upadhya,
Age: 75 years, Occ: Agriculture,
R/o: Parshwanath Jain Mandir, Jain Galli
Konnur, Tq: Gokak, Dist: Belagavi.

2. Padmavati W/o. Appasab Upadhya,
Age: 65 years, Occ: Agriculture,
R/o: Parshwanath Jain Mandir, Jain Galli
Konnur, Tq: Gokak, Dist: Belagavi.

3. Pramod S/o. Appasab Upadhya,
Age: 45 years, Occ: Agriculture,
R/o: Parshwanath Jain Mandir, Jain Galli
Konnur, Tq: Gokak, Dist: Belagavi.

**PARTIES TO I.A.No.IX & X U/o VI RULE 17 & U/o VIII RULE 1(a)
OF CPC**

Applicants: 1. Sri. Appasab S/o. Baramappa Upadhya
and others.

.....Applicant/Def.No.1

Vs.

Opponent: 1. Trishila W/o. Anil Upadhya.

.....Opponent/Plaintiff

**ORDERS ON I.A.No.IX & X FILED U/o VI RULE 17 & U/o
VIII RULE 1(a) R/W SECTION 151 OF CPC**

The defendant No.1 filed an application U/o VI Rule 17 R/W Section 151 of CPC at I.A.No.IX praying to permit him to amend the written statement as per proposed amendment and also filed an application U/o VIII Rule 1(a) R/W Section 151 of CPC at I.A.No.X praying to permit him to produced the document.

2. In the accompanying affidavit of I.A.No.IX, the defendant No.1 contended that the plaintiff filed a suit against him and others for the relief of partition and separate possession. He approach his counsel and filed his written statement thereafter he requested the plaintiff not to proceed with the matter and infront of elders by name Mahaveer Budigoppa and others the plaintiff agreed to withdraw the suit but he came to know that the plaintiff is proceeding with the suit and led her evidence. The suit properties are his

independent and exclusive properties now he has collected several documents as such, it is was necessitated to him to amend the written statement as per the proposed amendment. The proposed amendment nothing but an explanation to the earlier averments and the proposed amendment does not create surprise or prejudice to the other side and same also does not change the nature or stand already taken by him. If the application is allowed it will not cause any loss or injury to the plaintiff if not she will be put to irreparable loss and injury.

3. In the accompanying affidavit of I.A.No.X, the he contended that he has collected revenue document connected to suit property and same are necessary for him in support of this contention. Hence, he prayed permit him to produced the document.
4. The plaintiff filed objections to these applications by denying entire contention of the defendant. Further contended that already the plaintiff evidence is commenced at this stage the defendant has filed this present application which cannot be permitted in the eye of law. The facts stated in the proposed

amendment introduces new facts by taking inconsistent and contradictory pleas and completely change the nature of original defense. The defendant has filed these applications with malafide intention. Hence, prayed to reject the applications.

5. Heard both side. Perused the application and records.
6. The points that arise for my consideration are as follows:

- 1. Whether the defendant No.1 has made out grounds to permit him to amend the written statement as per the proposed amendment?**
- 2. Whether defendant has made out grounds to permit him to produced the documents annex to these applications?**
- 3. What order?**

7. My findings on the above Points are:

Point No.1:- In the Affirmative

Point No.2:- In the Affirmative

Point No.3:- As per final order
for the following:

REASONS

8. **Point No.1 & 2:-** When this case is posted for cross-examination of PW1 at the time the defendant No.1 filed these applications. The I.A.No.IX is filed U/o VI Rule 17 praying to permit the defendant to amend the written statement as per the proposed amendment. The defendant No.1 contended that the suit properties are his individual properties and he has collected several documents pertaining to the suit property. Now in view of collecting the documents it is necessary for him to amend the written statement as per the proposed amendment. I have perused the facts stated in the proposed amendment the said facts are in the form of explanation to the contentions which are taken by him at the time of filing of the written statement. The proposed amendment does not cause any loss or injury to the plaintiff and plaintiff contended that the defendant is taking inconsistent pleas by introducing new facts as such, he cannot be permitted to amend the written statement. The defendant is permitted to take inconsistent and alternative

please as a defense as such, the contention of the plaintiff that the facts stated in the proposed amendment are inconsistent to the facts already stated in the written statement is not acceptable one. The facts stated in the proposed amendment is just a necessary to decide whether suit properties are joint family properties or separate properties of the defendant No.1. Hence, I am of the consider view that the proposed amendment does not cause any loss or injury to the plaintiff and it will not introduced any new cause of action and same are just a necessary for adjudication of rights of the parties. Hence, I am of the consider view that the defendant No.1 is to be permitted to amend the written statement as per the proposed amendment.

9. Under I.A.No.X the defendant No.1 is intending to produced the adoption deed, death certificate, RTC extracts and property extracts of the suit properties. The documents which the defendant is intending to produced are material documents to decide the rights of the parties. If the defendant is permitted to produced the documents annex to

I.A.No.X it will not cause any loss or injury to the plaintiff.

Hence, I am of the consider view that the defendant is to be permitted to produced the documents annex to I.A.No.X.

Hence, **I answered the Point No.1 and 2 in the Affirmative.**

10. **Point No.3:-** For the aforesaid findings, I proceed to pass the following;

ORDER

The application filed by the defendant No.1 U/o VI Rule 17 R/W Section 151 of CPC filed at I.A.No.IX is hereby allowed.

The defendant No.1 is permitted to carryout necessary amendment to the written statement and furnish the amended written statement on or next date of hearing.

The application filed by the defendant No.1 U/o VIII Rule 1(a) R/W Section 151 of CPC filed at I.A.No.X is hereby allowed.

The defendant No.1 is permitted to
produced the documents annex to I.A.No.X.

Call on for carrying out amendment to
the written statement and furnishing the
amended written statement of defendant
No.1 by 19.02.2026.

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then
pronounced by me in the open Court on this the 10th day of February. 2026.)

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