

KABG510019322020



**IN THE COURT OF PRL. CIVIL JUDGE AND J.M.F.C,
GOKAK.**

**Present: Smt. Chaitra V. Kulkarni
B.A., L.L.B., L.L.M.
Prl. Civil Judge & J.M.F.C.,
Gokak.**

Dated this the 06th Day of November - 2025

Original Suit No.182/2020

Plaintiffs : Santosh S/o Sadashiv Mavarkar
(Since died by his L.Rs are already
On record and Others,

-V/s-

Defendants : Smt. Indumati @ Indubai
W/o Basavaraj Godake and Others,

RANK OF THE PARTIES ON IA No.17

Applicant /
Plaintiff No.3 : Vishal S/o Sadashiv Mavarkar,

-V/s-

Opponents/
Defendants : Smt. Indumati @ Indubai
W/o Basavaraj Godake and Others,

ORDER ON IA No.17 FILED UNDER ORDER VI RULE 17
R/W.151 OF CPC

The present application is filed by the plaintiffs and sought permission to amend the plaint as per the application schedule. In support of this application, the plaintiff No.3 has sworn an affidavit and averred that, at the time of instituting the suit, they did not add one property as suit property and also they have not shown the boundaries of the suit properties, hence, now it is necessary to add left out property and mention the boundaries to the suit properties in plaint schedule, hence sought to allow the application.

2. On the other hand, counsel for defendants have filed objections by denying averments of the affidavit and further contended that, the present application has been filed to fill-up the lacuna and the plaintiffs have no right, title and interest over the proposed property, which is sought to be added by way of amendment and same has been already exchanged by way of settlement and same is in the possession of the defendant No.7. Further, the present

application has filed at belated stage and no cogent reasons assigned to allow the application.

3. Further contended that, they have already raised the defence that, the suit properties are not specifically identifiable, hence to correct the said defect, the instant application has been filed. Further, the amendment will change the nature of suit and cause of action and if the amendment will be allowed, it causes ambiguity and the plaintiffs have not specifically prayed regarding the relief they want from court. Further if application will be allowed the defendants will be put into hardship. Hence on all these grounds sought to reject the application.

4. Heard both sides, perused materials available on record.

5. The following points would arise for this court consideration:

1. Whether the plaintiffs have made out sufficient grounds to allow this application?

2. What Order?

6. This court has answered the above points as under for the following reasons

Point No.1: In the Affirmative

Point No.2: as per final **Order** for the following;

::REASONS::

7. Point No.1: It should be noted that the present suit has filed for the relief of partition and separate possession. The present application is filed to add the another suit property and mention the boundaries to the already existing suit properties in the schedule of the plaint. On going through the proposed amendment and the objections raised by defendants, it is pertinent to note that, the defendants have already admitted that suit properties are not specifically identifiable as the plaintiffs have not shown boundaries to the suit schedule proprieties, further the defendants have contended that, the property which has sought by the plaintiffs to be added by way of amendment in the plaint, is absolute property of the defendant No.7 and already in the cross examination of PW.1, it has culled out about said proposed property and PW.1 has admitted the same. On going through the cross examination of PW.1, it apparently appears that, there are elicitation from the PW.1 about the said property by way of suggestion made by the counsel for the defendants. It is to be noted that, when there are suggestions and also contentions taken by the defendants regarding proposed property, to determine the dispute about the same, it is necessary to add the said

property in the suit. Further, proving about whether said property belongs to joint family of the plaintiffs and defendants is matter of trial and same needs to be decided with supportive averments and documents.

8. Further coming to amendment with respect to mentioning about boundaries of the suit properties, it is to be noted that, on perusal of plaint schedule, it clearly appears that the plaintiffs have not shown the suit schedule properties with proper boundaries and if the plaintiffs will be permitted to mention the boundaries, it will be helpful to specifically identify the suit properties and it also helps for further proceedings of the suit. Under such circumstances it is just and necessary to permit the plaintiffs to amend the plaint and if same is not permitted then, it leads to multiplicity of proceedings.

9. Further the proposed amendment will not change the nature of suit and cause of action and the objections contended by the defendants do not state, why the amendment should not be permitted, they have merely contended about delay in filing application and also about the facts which need to be considered at the time of trial. Further defendants will get opportunity to file additional written statement. Hence, the plaintiffs have made out the grounds to allow the present application. Accordingly, Point No.1 is answered in the **Affirmative**.

10. Point No.2: For the above said reasons, this court pass the following:

ORDER

I.A. No.17 filed by the plaintiffs
U/Order VI Rule 17 R/w 151 of CPC is
hereby “Allowed”. With cost of Rs.500/-.

Plaintiffs are permitted to amend
the plaint as sought for.

(Dictated to the Stenographer, typed by him on computer and corrected by me, then pronounced in the open Court on this day 06th November, 2025.)

***Prl. Civil Judge & JMFC.,
Gokak.***