

**ORDERS ON APPLICATION FILED UNDER
ORDER VI RULE 17 READ WITH SECTION 151
OF C.P.C.**

The present application is filed by the plaintiff No.1(a) under Order VI Rule 17 R/W Sec.151 of C.P.C with a prayer to permit her to carry out amendment as mentioned below:

In the plaint, after the para No.4 insert the para No.4(a) as “ಮೈತ ಗುರಸಿದ್ದಪ್ಪಾ ಬಂಗಾರಪ್ಪಾ ಲಾಡಿ ಇವರು ದಾವಾ ಆಸ್ತಿಯ ಕುರಿತು ಆತನ ಹೆಂಡತಿ ಶ್ರೀಮತಿ ಅನುಸೂಯಾ ಗುರಸಿದ್ದಪ್ಪಾ ಲಾಡಿ ಇವಳ ಹೆಸರಿಗೆ ದಿ:05.09.2022 ರಂದು ನೋಂದ ಭಕ್ಷಿಸ ಪತ್ರ ಮಾಡಿ ಕೊಟ್ಟಿದ್ದು, ಆ ಪ್ರಕಾರ ಸದರಿ ಆಸ್ತಿಗೆ ಅವಳು ಮಾಲಿಕಳು ವ ಕಬ್ಬಾ ವಹಿವಾಟದಾರಳು ಆಗಿರುತ್ತಾಳೆ. ಮೂಳ ವಾದಿ ಗುರಸಿದ್ದಪ್ಪಾ ಬಂಗಾರಪ್ಪಾ ಲಾಡಿ ಈತನು ಮೈತ ಆದ ನಂತರ ಆತನ ವಾರಸುದಾರಳಾಗಿ 1(ಎ) ಈ ದಾವೆಯಲ್ಲಿ ಪಕ್ಷಗಾರಳು ಆಗಿದ್ದರಿಂದ ಸದರಿಯವಳು ದಾವಾ ಆಸ್ತಿಗೆ ನೋಂದ ಭಕ್ಷಿಸ ಪತ್ರದ ಪ್ರಕಾರ ಮಾಲಿಕಳು ವ ಕಬ್ಬಾ ವಹಿವಾಟದಾರಳು ಆಗಿರುತ್ತಾಳೆ ಅಂತಾ ಘೋಷಿಸುವ ಕುರಿತು ಈ ದಾವೆ ಇರುತ್ತದೆ”.

and in prayer column, delete the word of “ವಾದಿಯ” and in the said place insert as ‘ವಾದಿ ನಂ.1(ಎ) ಇವಳು ದಿ:05.09.2022ರ ನೋಂದ ಭಕ್ಷೀಸ ಪತ್ರದ ಪ್ರಕಾರ ಮಾಲಿಕಳು ವ ಕಬ್ಬಾ ವಹಿವಾಟದಾರಳು ಅಂತಾ ಘೋಷಿಸಬೇಕಾಗಿ ವಿನಂತಿ ಅದೆ’ .

and in Sl. No.10(ಬ) delete the word of ‘ವಾದಿಯ’ insert as ‘ವಾದಿಯಳ ’

2. In the affidavit filed along with the application, it is submitted that, the deceased plaintiff has filed this suit for the relief of declaration and injunction against the defendants in respect of R.S.No.261/1. It is further submitted that, on 12.06.1986 her husband i.e. deceased plaintiff has purchased the suit schedule property bearing R.S.No.261/1 (Plot No.8) and thereafter, in the said plot in the year 1995-96, has constructed the house and she and her husband are in possession of the said house as owners and that the suit schedule property is the self acquired property of deceased plaintiff. Further it is contended that on 05.09.2022 her husband has executed the Gift deed in her favour and in the meantime her husband died and after the death of her husband, the plaintiff is only the owner of said house property and also her name was entered in the CTS extract as owner. Further as per said Gift deed it is very necessary to amend the plaint as mentioned in the application and that the same was not mentioned in the plaint. Therefore, it is necessary to amend the plaint. If this application is allowed, no loss and hardship will be caused to other side.

With all these contentions, prays to allow the application.

3. On the other hand, defendants have not filed objections to said application, hence objection by defendants is taken as not filed.

4. Heard advocate for plaintiff. Perused the materials on record.

5. The points that arise for consideration of this court are as follows:

1. Whether the plaintiff has made out sufficient grounds to allow the application filed under Order VI Rule 17 R/W Sec. 151 of C.P.C.?

2. What order?

6. For the reasons stated below, this Court answers to the above points as follows:

Point No.1: In the affirmative

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

:: R E A S O N S ::

7. Reasons for point No.1: The present suit is filed by the deceased plaintiff for the relief of declaration and injunction against the defendants by contending that the suit schedule property is the self acquired property of deceased plaintiff.

8. During the pendency of the suit, plaintiff was reported to be dead and his legal heirs plaintiff No.1(a) was brought on record and that plaintiff No.1(a) is the wife of deceased plaintiff.

9. In the present application plaintiff No.1(a) is intending to amend the plaint to plead facts about execution of Gift deed in her favour and amend the prayer that she is owner of suit schedule property. The plaintiff No.1(a) has produced original Gift deed dated 05.09.2022 and it supports the contention of plaintiff No.1(a).

10. The execution of Gift deed in favour of plaintiff No.1(a) is a subsequent event and that, the pleadings of execution of Gift deed are necessary to decide the rights of plaintiff No.1(a) in suit schedule property. Further by allowing the application the nature of suit will not change.

11. Further if the application is dismissed, the plaintiff No.1(a) will be forced to file another suit to seek relief of declaration of her title over suit schedule property and it will lead to multiplicity of proceedings. On the other hand if the application is allowed, all the disputes between plaintiff and defendants will be decided in the present suit itself and it will avoid multiplicity of proceedings. Hence, the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties and it is necessary to avoid multiplicity of proceedings and the said amendment is necessary to decide all the disputes between the parties in the present suit itself.

12. Further in the present case, the defendants have not filed objections. Hence, considering the said conduct of the defendants, there are no materials to dismiss the present application and that the defendants can file their written statement to defend their rights and no hardship will be caused to the defendants. Accordingly, for the reasons stated above, plaintiff has made out sufficient grounds to allow the application. Accordingly, the point No.1 is answered **in the affirmative**.

13. Reasons for point No.2:- For the reasons stated above, this Court proceeds to pass the following:

:: ORDER ::

The I.A.No.4 filed by the plaintiff under Order VI Rule 17 R/W Sec. 151 of C.P.C is hereby allowed with costs of Rs.100/-.

The plaintiff is hereby directed to carry out amendment and file amendment plaint on or before 24.01.2025.

The defendants are at liberty to file additional written statement.

10.01.2025.

**(SHRI. NEMACHANDRA)
C/c. Civil Judge & J.M.F.C.,
Hukkeri.**