

1	Provision under which the application is filed	VI Rule 17 R/w Sec.151 of CPC
2	Relief sought for	Amendment of plaint
3	The date on which the application filed	09.12.2025
4	Number of the application	IA No.IV
5	The date on which the objections are filed by different opponents	10.03.2026, 29.06.2026
6	The date on which the orders were passed on the said application	03.07.2026

ORDER ON IA NO.IV

2. The learned Counsel for plaintiffs has filed application at IA No.IV under Order VI Rule 17 R/w Sec. 151 of CPC seeking amendment to the plaint.
3. On the other hand the learned counsel for defendants No.1 and 2 have filed objections to the aforesaid application.
4. Heard on both side.
5. Perused the materials available on record. The points that are arise for consideration of this court are as under:
 1. Whether the plaintiffs have made out sufficient grounds to allow the application?
 2. To what order?

6. Answers of this court to the aforesaid points are as under;

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 filed for the relief of Permanent Prohibitory Injunction against the defendants claiming that they are in possession and enjoyment of the plaint schedule property as an absolute owner. On the other hand, the defendant No.1 denied the possession of plaintiff over the plaint schedule property and sought for the relief of declaration of title by way of adverse possession and also sought for permanent prohibitory injunction as a counter claim.
8. The reasons ventilated by the plaintiffs in the affidavit filed in support of the application are that he is seeking relief of declaration of his title over the plaint schedule property just to remove cloud over his title . Hence, prays to allow the application.
9. On the other hand, application is resisted by the defendants on the ground that, if the application is allowed, it would change the nature of suit as the defendants have already taken

contention that the suit of present nature is not maintainable. The defendant No.2 contended that application is time barred and denied right, title interest of the plaintiff over the plaint schedule property in his written statement and also contended that the property has not been allotted to the plaintiff and also defendant No.1. Hence, prays to reject the application.

10. It is an admitted fact that the present application has been filed after the commencement of trial. No doubt, there is a delay in seeking the proposed amendment. However, the proviso to Order VI Rule 17 of the Code of Civil Procedure does not create an absolute embargo on entertaining an application for amendment after the commencement of trial. The Court is empowered to allow such an amendment if it is satisfied that, despite exercising due diligence, the party could not have sought the amendment before the commencement of trial and that the proposed amendment is necessary for the effective, complete and proper adjudication of the real controversy involved in the suit.

11. In the present case, the proposed amendment seeks incorporation of an additional relief of declaration of title in respect of the plaint schedule property. The proposed relief is intrinsically connected with the subject matter of the suit and is intended to facilitate a

comprehensive adjudication of the rights of the parties. Therefore, the application cannot be rejected solely on the ground that it has been filed after the commencement of trial. The question as to whether the plaintiffs have established due diligence and whether the proposed amendment deserves to be allowed has to be examined in the light of the facts and circumstances of the case and the settled principles governing amendments of pleadings.

- 12.** On a careful perusal of the plaint averments, it is evident that the plaintiffs have already laid the necessary factual foundation regarding their title over the plaint schedule property. The pleadings disclose that the plaintiffs have asserted their ownership and the basis thereof from the inception of the suit. Subsequently, defendant No. 2 has specifically disputed and denied the plaintiffs' title. In view of such denial, the plaintiffs have filed the present application seeking amendment of the plaint to incorporate the relief of declaration of title, thereby converting the present suit into a comprehensive one so as to enable the Court to effectively and finally adjudicate all the disputes arising between the parties in a single proceeding and avoid multiplicity of litigation. Thus, the proposed amendment does not alter the basic nature or foundation of the suit but only

seeks to enlarge the relief for complete and effective adjudication of the dispute.

13. The **Hon'ble Supreme Court in *Sampath Kumar v. Ayyakannu and Another*, AIR 2002 SC 3369 : (2002) 7 SCC 559**, has held that an amendment converting a suit for injunction into one for declaration of title and consequential relief can be permitted if it is necessary to determine the real controversy between the parties and to avoid multiplicity of proceedings. The Apex Court has further held that mere delay in seeking amendment is not by itself a ground to reject the application and that the merits of the proposed pleadings are not required to be examined at the stage of considering the amendment.
14. Applying the aforesaid principles to the facts of the present case, this Court is of the considered opinion that the proposed amendment is essential for the effective and complete adjudication of the dispute between the parties. Since the factual foundation regarding title already exists in the plaint and the amendment only seeks an additional relief consequent upon the denial of title by defendant No. 2, no prejudice would be caused to the defendants.
15. Further, the plaintiffs have stated that they do not seek the benefit of the doctrine of relation back and that the proposed amendment shall operate only

from the date of filing of the amendment application. If the question of limitation is kept open to be decided at the time of trial, no prejudice would be caused to the defendants. On the contrary, refusal of the amendment would compel the plaintiffs to institute a separate suit, resulting in multiplicity of proceedings and defeating the very object of Order VI Rule 17 of the Code of Civil Procedure.

16. No doubt, there is delay in filing the present application. However, as held by the Hon'ble Supreme Court in ***Sampath Kumar*** case supra, mere delay, by itself, cannot be a ground to reject an application for amendment. Any inconvenience caused to the defendants on account of the delay can be adequately compensated by awarding reasonable costs and by granting them liberty to file an additional written statement and adduce further evidence, if so advised. Therefore, the application deserves to be allowed. Hence, in touchstones of the reasons assigned above this court answer ***point No.1 in the affirmative.***

17. Point No.2:- In view of my findings on Point No.1, this court proceed to pass the following:

ORDER

The application filed at IA No.IV under Order VI Rule 17 R/w Sec.151 of CPC is hereby allowed with costs of Rs.500/-.

Directed the plaintiff to carry out necessary amendment to the plaint and furnish amended plaint with fresh valuation slip with government guidelines.

The question of limitation is kept open as the doctrine of relation back is applicable to the present case.

Call on 15.07.2026.

03.07.2026
**Civil Judge & JMFC.,
Kittur**