

IN THE COURT OF CIVIL JUDGE & J.M.F.C., AT SANDUR.

Present : Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 19th day of August, 2026

O.S. No. 61/2024

Plaintiff : Suban Sab S/o Rajak Sab,
Aged about 60 years,
R/o Tyagadal village,
Sandur Taluk, Ballari District.

(By Sri. H.K., Advocate)

V/S

Defendant/s : Smt. Edigara Savithramma,
W/o Edigara Chandrappa,
and Others.

(D-1 to 3 By Sri. G.M, Advocate)

I.A. NO. II

Applicant : Suban Sab S/o Rajak Sab
(Plaintiff)

V/s

Opponents : Smt. Edigara Savithramma,
W/o Edigara Chandrappa,
and Others.
(Defendants)

ORDER ON I.A. NO.II FILED UNDER ORDER VI RULE 17 R/w
Sec. 151 of C.P.C.

The instant application is filed by the plaintiff seeking amendment of the plaint particularly in the plaint schedule. The application is filed on 02.08.2025 when the matter was posted for hearing on other interim application and before the commencement of trial.

2. It is stated that the plaintiff has instituted this suit against the defendants for the relief of permanent injunction in respect of the properties given in the plaint schedule. It is submitted that due to inadvertent human typographical mistake, the survey number in the plaint schedule is wrongly shown as Sy. No.165/B, measuring 2.33 acres and Sy. No.166/A, measuring 0.21 cents, instead of Sy. No.165C/1, measuring 0.49 acres and Sy. No.165/C/2 (paike), measuring 1.85 acres, and Sy. No.165/1 (paike), measuring 1.32 acres out of 3.66 acres. The applicant intend to amend the schedule with respect to the above facts, which according to him will not change the nature of the suit and

the cause of action. The proposed amendment could not be brought at the earlier point of time due to bonafide cause and reasons which was beyond his control. According to applicant, pre-amendment relief should be liberally construed. If the application is allowed no hardship will be caused to the other side. On these grounds, the applicant prays to allow the application.

3. The defendant No.3 has filed objections denying the contents of the application. According to her, the plaintiff has filed this suit for the relief of permanent injunction in respect of land bearing Sy. No.165/*/B, measuring 2.33 acres and Sy. No.166/*/A, measuring 0.21 cents, situated at Jigenahalli village, Sandur taluk. The plaintiff has filed application under Order 39 Rule 1 and 2 of CPC seeking temporary injunction in respect of the above properties. Therefore, the plaintiff cannot substitute the entire survey number by way of amendment, which if allowed will change the cause of action and nature of the suit. The application

is filed to drag on the proceedings. Amongst other grounds, she prays to dismiss the application.

4. The following points that arise for my consideration:

1. Whether the amendment sought is necessary for adjudication of matter in controversy ?
2. What order?

5. Heard the learned counsel for plaintiff and defendant No.3. In addition to this, the learned counsel for the plaintiff and defendant No.3 have filed written arguments. Perused the same and records.

6. My answer on the above points are as follows:-

Point No.1 : In the Affirmative

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

REASONS

7. **POINT NO.1**: The plaintiff has instituted this suit for the relief of permanent injunction in respect of the suit properties described in the plaint schedule.

8. The suit is in respect of the agricultural land bearing Sy. No.165/*/B and Sy. No.166/*/A, measuring 2.33 acres and 0.21 cents respectively, situated at Jigenahalli village, Sandur taluk. According to applicant, he has wrongly mentioned the property numbers of the above lands. Instead of land bearing Sy. No.165/*/B and Sy. No.166/*/A, the applicant intend to rectify the said survey number with land bearing Sy. No.165C/1, measuring 0.49 acres and Sy. No.165/C/2 (paike), measuring 1.85 acres, and Sy. No.165/1 (paike), measuring 1.32 acres out of 3.66 acres.

9. According to applicant, the mistake in mentioning the wrong property number is due to inadvertent human error. Admittedly, trial has not yet commenced. It is trite that pre-trial amendment has to be liberally construed. If the plaintiff is permitted to rectify the survey number it will neither change the nature of the suit nor the cause of action. The amendment will date back to the filing of the suit. If the relief for proposed amendment is not allowed, it will lead to multiplicity of the

proceedings. In case, the amendment is not allowed and trial proceeds with respect to the existing land survey numbers and if the suit ends in dismissal, the plaintiff can file another suit in respect of the lands shown in the application. In such a case, the consequent will be the multiplicity of the proceedings.

10. The learned counsel for the plaintiff has relied upon the decision of Hon'ble High Court of Karnataka between ***Shri Mohammadrafi and Another Vs. Bandenawaz and Others [W.P. No.108512/2025 (GM-CPC)]***. In the said decision, it is emphasized that the test of “due diligence” envisaged in the proviso to Order 6 Rule 17 of CPC is not of universal application. It was held that in a given facts and circumstances where the amendment applications “post commencement of trial” have to be allowed in spite of the party applying for the amendment not passing the “due diligence test”. The Hon'ble High Court gave an illustrative instances where the application for amendment post commencement of trial have to be allowed even if such applications are filed post commencement of trial. One such

instance is the application for amendment to correct property number, extent, location or discrepancies in the boundary or any other mis-description of the property.

11. In the instant case, the trial has not yet begun. The application is filed even before the commencement of trial. This court is not dealing with an application for amendment “post commencement of trial”. However, the Hon'ble High Court has observed that if an amendment is sought for the correction of the property number, extent or the boundaries, such applications can be allowed even post commencement of trial. Such being the case, the amendment for rectification of the property number and extent can even be allowed pre-commencement of trial to avoid multiplicity of the proceedings.

12. The learned counsel for the defendant No.3 has relied upon the judgment of Hon'ble High Court of Karnataka between ***Bhimavva Vs. Gurunath and Others [W.P. No.101169/2023 (GM-CPC)]***. In the said case, an amendment was sought to

include an additional property in the plaint which was said to have been sold in the year 1989. The Hon'ble High Court was of the view that the amendment sought in the year 2020 introduces a new cause of action by including a transaction from 1989, which was not initially contested. With these observations, the Hon'ble High Court did not allow the amendment of the plaint to include the property.

13. In the instant case, the plaintiff is not seeking to include additional property but the rectification of already existing property. Similarly, it is not the situation in the instant case that the properties described in the proposed amendment are sold long back and therefore, cannot be included in the present suit. Therefore, the above decision relied upon by the learned counsel for defendant No.3 can be distinguish with the present case. The said decision is not applicable to the facts and circumstances of the present case. The other decision relied upon by the learned counsel for defendant No.3 reported in AIR 1970 SC 652 has no application to the present case in hand as it is not

dealing with the question of amendment of plaint.

14. Thus, for the above said discussion, the proposed amendment sought by the plaintiff will help in arriving at a proper conclusion and to adjudicate the matter in controversy between the parties. The proposed amendment will not change the nature of the suit or a cause of action. If the application is not allowed it will lead to multiplicity of the proceedings. The amendment does not cause prejudice to the defendants. Therefore the applicant shall have to be permitted to amend the plaint as sought in the application. Hence, there are grounds to allow the application. Consequently, this court proceed to answer Point No.1 in the Affirmative.

15. **POINT No.2:** In view of the above findings and discussions, I proceed to pass the following:-

ORDER

I.A.No.II filed U/O. VI Rule 17 R/w Sec. 151 of C.P.C, by the applicant/plaintiff is hereby allowed.

The applicant/ plaintiff shall carry out
necessary amendment and file amended plaint.

*(Dictated to the stenographer, computerized by him, corrected by me
and then pronounced in the open Court, on this the 19th day of
August 2026)*

(Md. Shaiz Chouthai)
Civil Judge and J.M.F.C., Sandur.