

KABK700001032022



O.S./39/2022

IN THE COURT OF PRL. SENIOR CIVIL JUDGE & JMFC, JAMKHANDI.

Present:

Shri. Rajashekhar.S. Harsoor

B.A. LL.B.,

Prl. Senior Civil Judge & JMFC, Jamkhandi.

O.S No.39/2022

Dated this, the 31st day of July, 2025.

1. Shri. Shripad S/o Kalyanrao Deshpande,
Age: 75 years, Occ: Agriculture,
R/o: Hirepadasalagi village, Tq: Jamkhandi, Dist: Bagalkot,
Represented by his P.A Holder,
Shri. Mahesh S/o Shripad Deshpande,
Age: 35 years, Occ: Agriculture,
R/o: Hirepadasapagi village, Tq: Jamkhandi, Dist: Bagalkot.

... Plaintiff

(Represented by Sri.B.S.T., Advocate)

- Vs -

1. Shri. Kalyankumar S/o Venkatrao Deshpande,
Age: 45 years, Occ: Agriculture,
R/o: Paga Galli, Jamkhandi, Dist: Bagalkot.
2. Smt. Geeta W/o Madan Bhagawant,
Age: 40 years, Occ: Household work,
R/o: Near Meenaxi Chowk, Vijayapur, Dist: Vijayapur-586 103.

3. Smt. Sujata W/o Raghavendra Kulkarni,
Age: 37 Major, Occ: Household work,
R/o: C/o: Ashok Padaki, Behind S.P.S House Vijayapur-586 103.
4. Smt. Kamala W/o Suresh Savanur,
Age: 68 years, Occ: Household work,
R/o: Venkat Galli, Near Vijay Bank, Solapur Chawl, Bagalkot,
Dist: Bagalkot.
5. Shri. Jayateerth S/o Hanamantrao Deshpande,
Age: 40 Major, Occ: Business,
R/o: Rampur Galli, H.K Road, Mudhol-587 313, Dist: Bagalkot.
6. Smt. Pushpa W/o Girish Gosavi,
Age: 37 Major, Occ: Household work,
R/o: Mahalaxmi Apartment, Station Road,
Ugar Khurd-59 316, Tq: Kagawad,
Dist: Belagavi.

... Defendants

(Defts. No.1 to 3 represented by Sri.G.G.N., Adv)

(Defts. No.4 represented by Sri.N.B.G., Adv)

(Defts. No.5 & 6 represented by Sri.M.M.T., Adv)

: PARTIES IN I.A No.V :

1. Shri. Shripad S/o Kalyanrao Deshpande.

...Applicant

- Vs -

1. Shri. Kalyankumar Deshpande and others.

...Opponents

i.	Provision under which the application is filed	:	U/o.VI Rule 17 R/w. Sec. 151 of CPC.
ii.	Relief sought for	:	Seeking amendment of plaint as per proposed amendment.
iii.	The date on which the application is filed	:	18.02.2025.
iv.	Number of the application	:	I.A.No.V
v.	The date on which the objection is filed by different opponents	:	Counsel for the defendant No.4 has orally objected to IA.No.V on 31.07.2025.
vi.	The date on which the order was passed on the said application	:	31.07.2025.

: ORDER ON I.A No.V:

1. The plaintiff filed IA.No.V U/o.VI Rule 17 R/w Sec.151 of CPC seeking leave for amendment of plaint as per proposed amendment.
2. In support of above application, the attorney holder of the plaintiff has sworn to an affidavit, wherein he has mainly stated that, the plaintiff filed this suit for the relief of declaration, partition & separate possession. At the time of filing of suit, he could not plead the prayer specifically. Hence he filed this application to seek proper prayer in the plaint. He further stated that, the proposed amendment will not change the nature of the suit. It will not cause any prejudice to the defendants. Moreover the proposed amendment is required for

proper & fair adjudication of the matter in dispute. With this, he prayed to allow above application.

3. On the contrary, counsel for the defendant No.4 has orally objected to I.A.No.V stating that, the plaintiff filed this application at belated stage, with intent to harass the defendants. The proposed amendment will not assist the plaintiff. Hence said application may be dismissed with costs. Rest of the defendants have not filed objection to above application.
4. Heard both side. Perused the application, objection, pleadings & all other materials placed on record. Upon going through the same, the following points arise for consideration:

POINTS

1. Whether the proposed amendment is necessary for proper adjudication of the matter in dispute?
 2. What order ?
5. Having heard arguments canvassed by both the counsels & going through the materials on record, this court answers to above points as under:

Point No.1 : In the affirmative.

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

: REASONS :

6. **Point No.1** : The plaintiff filed this suit for the relief of declaration, perpetual injunction and an alternative relief of partition & separate possession. As per the materials on record, the plaintiff has filed this application before settlement of issues.
7. As per plaint averments, the plaintiff prayed to declare him as only legal heir of the deceased Ganapatrao. Now he wants to seek the declaratory relief that, he may be declared as one of the legal heirs of deceased Ganapatrao. Further he has sought to award 1/3rd share in the suit schedule properties.
8. On conjoint of reading of the pleadings and all other materials on record, it appears that, the plaintiff is not seeking to incorporate any new fact or relief in the plaint. The proposed amendment will not change the basic structure of the suit. Moreover the plaintiff filed this application before commencement of the evidence. At this stage, if above application is allowed on reasonable costs, no harm or

prejudice would be caused to the defendants. On the other hand, if above application is not allowed, the plaintiff would be put to hardship rather than the defendants. In view of above discussion, point No.1 is answered in affirmative.

9. **Point No.2:** In view of above findings, the following order is passed:

: O R D E R :

I.A.No.V filed U/o.VI Rule 17 R/w Sec.151 of CPC by the plaintiff is hereby allowed on cost of Rs.100/-.

The plaintiff is permitted to carry out amendment in the plaint as per proposed amendment and furnish amended plaint.

Call on 13-08-2025.

(Dictated to the stenographer directly on computer, typed by her, transcript corrected and signed by me, and then pronounced in the open Court on 31st day of July, 2025)

**Sd/-
(Sri. Rajashekhar S. Harsoor)
Prl. Senior Civil Judge & JMFC,
Jamkhandi.**