

ORDER ON I.A No.II

i.	Provision under which the application is filed	:	U/o.VI Rule 17 R/w Sec.151 of CPC.
ii.	Relief sought for	:	For amendment of petition as per proposed amendment.
iii.	The date on which the application is filed	:	08.04.2024
iv.	Number of the application	:	I.A.No.II
v.	The date on which the objection is filed by different opponents	:	22.06.2024
vi.	The date on which the order was passed on the said application	:	21.02.2026.

1. The petitioners have filed I.A.No.II U/O.VI Rule 17 R/w Sec.151 of CPC seeking amendment of the petition as per proposed amendment.

2. In support of above application, second petitioner has sworn to an affidavit, wherein he mainly stated that, the petitioners have initiated the present final decree proceedings on the basis of the judgment & decree passed in O.S.No.89/2008 instead of the judgment & decree dated 06.09.2022 passed in R.A.No.194/2019. In the said regular appeal the Hon'ble I Addl District & Session Judge Bagalkot sitting at Jamkhandi has

modified the judgment & decree passed in O.S.No.89/2008. Hence it is just & necessary to incorporate the proposed amendment in the petition. With this he prayed to allow above application.

3. On the contrary, counsel for respondent has filed objection stating that, the respondent/defendant being aggrieved by the judgment & decree passed in R.A.No.194/2019, he preferred RSA.No.100450/2023 before the Hon'ble High Court of Karnataka Dharwad bench. The said RSA is still pending. Such being the fact, the petitioners have initiated the present final decree proceedings without verifying the facts. Hence above application is liable to be rejected with costs.

4. Heard counsel for the petitioners. Respondent's counsel has failed to canvass his arguments. Perused the application, objection & all other materials placed on record. Upon going through the same, the points that would arise are as follows:

POINTS

1. Whether the petitioners have made out grounds to allow application ?

2. What order ?

5. 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 petitioners have initiated the final decree proceedings on the basis of the judgment & preliminary decree passed in O.S.No.89/2008. In the affidavit annexed to above application, petitioner No.2 has stated that, the judgment & decree passed in aforesaid suit is modified by the Hon'ble I Addl. District & Sessions Judge Bagalkot sitting at Jamkhandi in R.A.No.194/2019. Hence he filed this application to make necessary amendment to the petition.

7. The photo copy of decree passed in R.A.No.194/2019 discloses that, the Hon'ble I Addl. District & Sessions Judge Bagalkot sitting at Jamkhandi has modified the judgment & preliminary decree passed in aforesaid suit. Under such circumstances the petitioners ought to initiate final decree proceedings on the basis of the judgment & decree passed in aforesaid appeal. Having regard to the above facts &

circumstances, this court is of opinion that, the proposed amendment is very much necessary for proper adjudication of the matter. It is to note here that, as per the photo copy of E-courts proceedings produced by the respondent, the respondent has challenged the judgment & decree passed in R.A.No.194/2019 in RSA.No.100533/2023 before the Hon'ble High Court of Karnataka Dharwad bench. Wherein it is ordered that, the final decree proceedings shall be proceeded with up to the stage of drawing up of the decree. Having regard to above facts & circumstances this court is of opinion that, if above application is allowed, no harm or prejudice caused to the respondent. Accordingly point No.1 is answered in the affirmative.

8. Point No.2: In view of above findings, the court proceeds to pass the following:

ORDER

I.A.No.II filed U/o.VI Rule 17 R/w Sec.151 of CPC by petitioners is hereby allowed.

Petitioners shall make necessary amendment in the petition in accordance

FDP.No.50/2022

with proposed amendment & furnish
amended petition.

Call on 06.03.2026.

**Prl. Senior Civil Judge & JMFC,
Jamkhandi.**