

KABK700007292024



O.S./160/2024

**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE, JAMKHANDI.**

**: PRESENT :**

**Shri. Sushant Mahaveer Chougale  
B.A, LL.B.(Spl)  
Addl. Senior Civil Judge, Jamkhandi.**

**O.S.No.160/2024**

**Dated this, the 13<sup>th</sup> day of January 2026.**

1. Mahadev S/o. Bhimappa Kavatagi,

**.... Plaintiff.**

**(Represented by Sri. C.T.U., Advocate)**

**-Vs-**

1. Hanamant S/o. Tippanna Madar dead by legal heirs

**..Defendants.**

**(Deft.No.1(a to d) are represented by Shri. I.M.G., Adv.)**

**: PARTIES TO I.A. NO.III :**

1. Mahadev S/o. Bhimappa Kavatagi,

**... Applicant/plaintiff**

**-Vs-**

1. Hanamant S/o. Tippanna Madar dead by legal heirs

**.... Opponents/Defendants**

i.	Provision under which the application is filed	:	U/o.VI Rule 17 R/w Sec. 151 of CPC.
ii.	Relief sought for	:	Seeking leave for amendment of plaint as per proposed amendment.
iii.	The date on which the application is filed	:	19.09.2025
iv.	Number of the application	:	I.A.No.III
v.	The date on which the objection is filed by different opponents	:	24.09.2025
vi.	The date on which the order was passed on the said application	:	13-01-2026

**: ORDER ON IA NO.III :**

**1.** The plaintiff has filed I.A.No.III 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 plaintiff has sworn in an affidavit stating that, the property number and extent of the property involved in the suit agreement for sale is changed while preparing E-Khata of panchayat properties. The property number and extent of the property involved in the agreement for sale was VPC serial No.1119, VPC property No.611/B measuring East-West 60 feet and South-West 25

feet. Now, while preparing E-Khata of Panchayat properties, changed as property No.150100503400342537 Number as per panchayat records 611/B1 and extent East – West 21.00 (7.00,14.00) South-North 5.50 sq.mtrs. The amendment is necessary to decide the suit effectively, otherwise he would be put to trouble in executing the decree that would be passed in his favour. The proposed amendment will not change the nature of the suit nor will it affect the defensive interest of the defendants. If this application is allowed, no harm or loss will be caused to the plaintiff, on the contrary, if it is rejected he would be put to greater hardship and irreparable loss. With this, he prayed to allow above application.

**3.** On the contrary, counsel for defendants filed objection to above application by denying the reasons assigned in the affidavit. He contended that, the applications filed with affidavit, itself is not tenable in the eyes of law and facts. The proviso of order VI Rule 17 states that, court will not allow application on amendment after the trial has been commenced. Already in this case issues were framed and kept for plaintiff's further chief. In this case, issues were

framed and evidence is began, under these circumstance this type of application cannot be maintainable. The application filed by the plaintiff itself are not maintainable one. The plaintiff has not approached before this Court with clean hands and he played mischief before this Hon'ble Court. At this belated stage the amendment of plaint cannot be permissible one. The plaintiff going to produce the documents i.e., property extract, the said property extract was in existence at the time of filing of the suit and the plaintiff has got full knowledge of the said document, but at the time of filing of the plaintiff cannot produce the document intentionally. Hence, it is not maintainable one. If the applications of plaintiff as prayed for is allowed heavy loss would be caused to the defendants, on the contrary if it is rejected no loss would be caused to the plaintiff, If the applications are allowed the nature of the defence is changed. With this, the counsel for the defendants prayed for rejection of above application with costs.

4. Heard arguments. Perused the application, objection & all other materials available on record. Upon going through the same, the following points arise for consideration:

**POINTS**

1. Whether the plaintiff has made out sufficient grounds to allow above 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:

**: R E A S O N S :**

**6. Point No.1:** At the outset, the plaintiff filed this suit for the relief of specific performance of contract. The plaintiff has filed present application for amendment of number and extent of suit schedule property on the ground that, while preparing E-Khata of Panchayat property the suit schedule property number and extent is changed, hence plaintiff intends to get amend plaint. On the other hand, the defendant filed objection contending that, already trial has been commenced and matter is posted for further chief examination of the

plaintiff and the plaintiff has not made out grounds for amendment even after commencement of the trial hence plaintiff cannot be permitted to amend the plaint provided under proviso VI Rule 17 of CPC.

**7.** After hearing both side and perusal of the materials available on record, it is pertinent to note that, Order VI Rule 17 of CPC. Order VI Rule 17 of CPC part I provides that, any number of amendments can be sought before commencement of the trial. Part II provides proviso that, unless the court comes to the conclusion that inspite of due diligence the party could not have raised proposed amendment before commencement of the trial then the court can permit party to amend the suit as the case may be. In the case on hand, though issues settled and matter is posted for the further chief examination of the plaintiff which also amounts commencement of trial, but the plaintiff has raised proposed amendment at the very inception of the commencement of trial as the number and extent of suit schedule property has been changed while preparing E-Khata by the Village Panchayat. Further the plaintiff in order to substantiate the

same filed IA.No.IV along with list of documents of suit schedule property which discloses that, the suit schedule property which was intend to get amend by the plaintiff on the ground of E-Khata is forthcoming. Therefore, the proposed amendment is not only necessary to adjudicate the suit effectively but also to come to the fair conclusion of trial in respect of proper suit schedule property while result of suit. However the proposed amendment raised by the plaintiff cannot be said that it was belated one. If the proposed amendment cannot be allowed, the plaintiff would be curtailed of his right of plea at the very inception of the suit, on the other hand, the defendants will have right to file additional written statement after proposed amendment. Therefore, the proposed amendment is necessary to adjudicate the real controversy between the parties. Anyway the proposed amendment will not change the basic structure of the suit. Therefore if the plaintiff is permitted to amend the plaint as per the proposed amendment at this stage of the suit, on reasonable costs, no harm or prejudice would be caused to the defendants. Otherwise, the plaintiff would be

put to hardship rather than the defendants. With these observations, this court answers point No.1 in the affirmative.

**8. Point No.2 :-** As per the reasons stated in point No.1, I proceed to pass the following ;

**ORDER**

I.A.No.III filed U/o.VI Rule 17 R/w Sec.  
151 of CPC by the plaintiff is hereby  
allowed with cost of Rs.250/-.

The plaintiff shall carry out  
amendment and furnish amended plaint.

*(Dictated to the stenographer directly on computer, typed by her, corrected  
then pronounced by me in the open Court on this the 13<sup>th</sup> day of January 2026)*

**(Shri. Sushant Mahaveer Chougale)**  
**Addl. Senior Civil Judge,**  
**Jamkhandi.**