

KABR610022212026



IN THE COURT OF THE II ADDL CIVIL JUDGE &
J.M.F.C., AT NELAMANGALA

PRESENT: Dr. Chandini.N. B.A.L.,LLM.,Phd.,
II Addl. Civil Judge & J.M.F.C.,
Nelamangala.

Dated this the 17th day of April, 2026

O.S.No.96/2026

Plaintiff/s:

Sri. Krishnakumar B.G
S/o Late Govindaiah,
Aged about 50 years,
R/at K.G Srinivasapura Village,
Sompura Hobli,
Nelamangala Taluk

(By Sri. B.A.M, Advocate)

V/s

Defendant/s:

1. Sri. Govindaraju
S/o Late Hanumanthrayappa,
Aged about 38 years,
2. Sri. Suresh. M
S/o Late Munishamaiah,
Aged about 50 years,

Defendant No.1 & 2 are
R/at K.G Srinivasapura Village,
Sompura Hobli,
Nelamangala Taluk,

3. Panchayath Development Officer
Honnenahalli Gramapanchayath,
Honnenahalli.

(By Sri. S.M., Advocate)

Parties in I.A U/O 6 Rule 17 of CPC

Applicant/plaintiff: Sri. Krishnakumar B.G

V/s

Opponents/Defendants: Sri. Govindaraju and others

**ORDERS ON I.A. No. 5 filed U/O 6 Rule 17 R.w Sec. 151
of CPC**

The plaintiff has sworn to an affidavit stating that, the present suit is filed by the plaintiff against the defendants for the relief of permanent injunction. The defendant No.1 & 2 filed their vakalath and filed the IA.No.2 & 3. While preparing to hear on IA No.2 & 3 plaintiff's counsel asked some clarifications that time the plaintiff got to know the mistake i.e., E-khata extent and schedule extent is different which is mentioned in the square feet. The above said mistake was done in plaint

para No.2 on the line No.6 & 7 and plaint schedule and when the plaintiff got the knowledge of mistake done by him by oversight which is typographical error not an intentional he immediately came up with this present application to rectify the said mistake. It is further submitted that, there is no delay in filing the present application. Hence prays to permit the plaintiff to amend the plaint and also permit plaintiff to amend the plaint para No.2 on the line No.6 & 7 and plaint schedule measurement which is measured in Sq feet east to west 60 feet and north to south 60 and total 3600 Sq feet in the above suit.

2. On the other hand, the defendant No.1 and 2 has filed objection to I.A.No.5 submitting that the plaintiff has filed this application for the amendment of the schedule in the present suit during the pendency of the IA under order 39 Rule 1 and 2 and IA filed by defendants under order 39 rule 4 of CPC. The present

application is not maintainable at this stage as the present suit is filed by the plaintiff for the permanent injunction based on the earlier schedule which was shown in the plaint and during the hearing stage of the IA's above mentioned all of a sudden the plaintiff has come before this Court with this frivolous application.

3. It is submitted that the plaintiff himself is not aware of the proper and actual area of his alleged suit schedule property because the plaintiff has himself produced an earlier suit bearing OS.No.516/2009 plaint and exparte decree wherein it is shown as Site bearing No.44/45 situated at K.G.Srinivasapura Village, Sompura Hobli, Nelamangala Taluk, and measuring East to West 60 feet and North to South 60 feet, wherein the same reflects in the present suit schedule. This being the case the plaintiff all of a sudden has come before this Court with the said application for amendment of the schedule which clearly goes to show that the earlier exparte

decree which was obtained by the plaintiff father i.e, Govindaiah is an illegal decree obtained by misleading the Court and the plaintiff in the present case clearly aware of this fact and now during the hearing stage he has come before this Court for amendment only to mislead this Court as it goes to show that the plaintiff is absolutely aware of his illegal possession of the encroached land of Nakashe Road and Portion of the Govt. School which is part of the suit schedule property.

4. It is further submitted that the amendment itself shows that in the previous suit the plaintiff father has taken ex parte decree by misleading the court by mentioning the wrong measurement, now the same is being rectified by filing an application, in such case the boundaries would be changed and the measurement shown in the plaintiff documents itself become invalid and create the doubts in the mind of the court regarding identification of suit property as per Order 7 Rule 3 of

CPC. The application filed with malafide intention, but not on Bonafide reasons. The statements of amendment application and the plaint and the documents of plaintiff are in contradiction to each other.

5. It is further submitted that, the Plaintiffs are seeking amendment of schedule by only deleting east to west 60 feet and north to south 60 feet and Total 3600 Square feet and he is holding remaining portion of the schedule only to mislead this Court and these defendants. It is submitted that, when the plaintiff is deleting the measurement of East to West 60 feet and North to South 60 feet then it is bound duty of the plaintiff to show what is the new measurement of east to west and north to south and its boundaries. Hence from this conclusion can be drawn that there is no proper identification of the property and the boundaries mentioned in the schedule is also wrong and hence plaintiff is not entitled to get any relief from this Court

with this uncertain measurement and boundaries and the present suit is not at all sustainable. Hence the application is liable to be dismissed.

6. Heard the arguments canvassed by the learned counsel for plaintiff and defendants.

7. The following points arise for my consideration in IA.No.5:

1. Whether the plaintiff No.2 has made out grounds to allow the amendment application as prayed for?

2. What order?

8. Heard both sides and perused the materials placed on record .

9. My findings to the above points are as follows:

Point No.1: In the Affirmative

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

REASONS

10. **Point No.1:** On perusal of records it appears that the plaintiff has filed this suit for the relief of permanent injunction. The reasons assigned by the

plaintiff in the affidavit annexed upon application are that the proposed amendment is just and necessary for proper adjudication of the matter, by allowing the application no prejudice to the other side. The defendants have resisted the application by filing objection taking contention as narrated above and also submitted that this application is filed only in order to drag the proceedings, the plaintiff has filed this false application. On perusal of the pleadings of both parties, case papers, application, annexed affidavit and objection filed by the defendants, It is found that the present suit is now at the stage of hearing.

11. It is well settled principle of law that, Order 6 Rule 17 of CPC enables the parties to rectify the mistake while drafting the pleadings. In the instant case on hand, the defendants have filed detailed objections stating that the amendment which is sought is to mislead the court.

12. It is also well settled principle of law that the merits of the amendment sought in the amendment application need not to be prejudiced at the time of considering the amendment application. It is relevant to note that already the plaintiff sought for the relief of

permanent injunction in the plaint. By allowing the application, the nature of the suit, cause of action does not change. Further, the plaintiff has to prove his case by producing the relevant documents in respect of the amendment sought for. Moreover pleadings is not an amount of proof. The plaintiff has to prove his own case and has to prove what ever he pleads. Hence, in such an event amendment sought for has to be considered in the ends of justice. Since that the suit in the stage hearing and evidence has not yet completed. The amendment application filed by the plaintiff is to be considered liberally. Therefore, allowing the application no prejudice will caused to the defendant. Further it is open to the defendant to disprove the fact in respect of the amendment which is sought for in this application to prove their case. On the other hand, if the application is rejected the plaintiff will be put into great hardship and injuries. If this application is rejected the plaintiff will be deceived with an opportunity to put forth his case, technicality of law not become stumble stone in rejecting ends of justice. No doubt, there is delay in filing of this application and the plaintiff has not stated proper grounds for delay in filing the application. The parties should not suffer for the same. In the interest of justice and equity, the delay can be compensated in terms of

cost . In the touchstone of the reasons stated above, this court is answered the **Point No.1 in the Affirmative.**

13. **Point No.2:** In view of the findings on the point No.1, this court proceeds to pass the following

ORDER

IA.No.5 filed by the plaintiff Under Order 6 Rule 17 of Civil Procedure Code is hereby allowed on cost of Rs.500/-.

The plaintiff to carryout the amendment and to file amended plaint.

(Directly dictated to the Stenographer through computer, typed by her, corrected, signed and pronounced by me in the open court, this the 17th- day of April, 2026)

(Smt. Chandini.N)
II Addl. Civil Judge and JMFC.,
Nelamangala.