

09-06-2026

While perusing the case record for the purpose of dictating orders on I.A. Nos. I to III, this Court has observed that it is necessary and appropriate to first consider and dispose of I.A. No. III, which has been filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure seeking amendment of the plaint. Since the adjudication of the said application may have a bearing on the consideration of the other interlocutory applications, this Court deems it fit and proper to pass an order on I.A. No. III in the first instance. Accordingly, this Court proceeds to consider and pass the following order on I.A. No. III.

ORDER ON I.A.No.III

The plaintiff has filed an interlocutory application No.3 under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment of the plaint.

2. In the accompanying affidavit, it is stated that the suit is for permanent injunction and consequential reliefs. It is further submitted that, the defendant has filed written statement claiming his right on the schedule property and disputing the plaintiff's title over the suit schedule property. In view of the stand taken by the defendant, it has become necessary to amend the plaint by incorporating appropriate pleading and relief of declaration, so as to effectively adjudicate the real dispute between the parties. Issues have not been framed. Therefore, no prejudice will be caused to the defendant. The proposed amendment does not alter the nature or character of the suit. Hence, the plaintiff seeks permission to amend the plaint.

3. Defendant has filed detailed objections, contending that the intention behind the application is only to prolong the proceedings with an ulterior motive & intention. That no new facts or events have supervened subsequent to the filing of the plaint or written statement warranting the proposed amendment. The Plaintiff is not entitled to amend the plaint at this belated stage & when the stay application was taken for orders and adjourned so many times. That the application is

not maintainable and deserves to be dismissed with exemplary costs in the interest of justice.

4. It is further contended that the Defendant/Respondent specifically denies there exists any sort of cloud on the title of the Plaintiff to the suit property. It is an admitted version of the Plaintiff in para 5 of the Plaint that the property is purchased in the name of Neena. T, wife of this Defendant. Defendant is the lawful husband of this Defendant who got married on 25/10/2020 as per custom. It is also admitted that Defendant & Late Neena. T have no children born in their wedlock & Neena. T expired on 17th February 2025. Being-so, the Suit property is not inherited by the Defendant's wife from her father. Things being-so, the Defendant is positioned as a true and lawful owner as successor in interest u/s 15(1) (a) of Hindu succession Act, 1956, which got consummated from 17th February 2025 date of death of Neena. T. The written statement filed by the Defendant has already traversed the plea of ownership raised by the Plaintiff and categorically asserted the Defendant's title as Class-I heir and lawful successor to the suit based on the admitted fact. So amendment to the Plaint is not required to introduce a relief of declaration of Plaintiff's title.

The property in question has not been inherited by the Defendant's wife and the Defendant's position as lawful successor stands unchallenged in the above context. Introducing a declaration relief would prejudice the Defendant and delay the proceedings unnecessarily. Therefore, the application deserves to be dismissed.

5. I have heard arguments of both side. Perused the material on record.

6. The plaintiff instituted the present suit seeking the relief of permanent injunction in respect of the suit schedule property. The case of the plaintiff is that plaintiff purchased the plaint schedule property i.e. Flat No.301, 3rd Floor, S.J. East Breeze, Vinayaka Nagar, Hagdur, Whitefield Post, in the name of his daughter Smt. Neena through a registered sale deed dated 12-07-2019.

7. Upon careful perusal of the records, it is evident that issues have not been framed and the suit is presently posted for orders on I.A.I and II. However, it is a well-settled principle of law that amendment of pleadings can be allowed even before the framing of issues, provided that such amendment does not change the basic nature of the suit and does not cause serious prejudice to

the opposite party, which cannot be compensated by costs.

8. The proposed amendment seeks to bring on record certain additional facts clarifying the title of the plaintiff over the suit property as he was purchased the suit property in the name of her deceased daughter i.e. wife of the defendant and there is no contribution of the defendant in order to purchase the suit property. By way of the proposed amendment, the plaintiff also seeks to incorporate additional reliefs, including a prayer for a declaration of title over the suit property and for consequential relief of injunction against the defendant.

9. The amendment is thus intended to clarify the existing pleadings and to seek additional reliefs arising out of the same cause of action. The proposed amendment appears to be connected with the subject matter of the suit and the real controversy between the parties.

10. The question that arises for consideration at this stage is whether the relief sought by way of the proposed amendment is barred by limitation. It is a settled principle of law that the question of limitation often becomes a

mixed question of law and fact, particularly where the pleadings involve disputed facts. Such an issue cannot be conclusively determined at the stage of considering an application for amendment of pleadings, and the same has to be adjudicated after a full-fledged trial based on the evidence adduced by the parties.

11. At this stage, the proposed amendment appears to be necessary for determining the real controversy between the parties and for effectively adjudicating their respective rights in respect of the suit schedule property. Allowing the amendment would not cause undue prejudice or irreparable injury to the defendant. The defendant will have sufficient opportunity to file an additional written statement and to adduce further evidence, if so advised. Such safeguards adequately protect the defendant's right to contest the claim and ensure adherence to the principles of natural justice.

12. In the facts and circumstances of the case, this Court is of the considered opinion that the proposed amendment is bona fide and essential for the just, complete, and effective adjudication of the dispute between the parties. Allowing the amendment would facilitate the

determination of the real issues in controversy and would also prevent multiplicity of proceedings between the parties. Accordingly, the application filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure deserves to be allowed. **Accordingly, this Court passes the following order:**

ORDER

I.A. No. III filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure, are hereby allowed.

The Court directs the plaintiff to carry out the necessary amendment to the plaint, as specified in his application.

For amendment and amended plaint/fresh valuation slip by 29-06-2026.

09-06-2026
Vishwanath Savadi
Civil Judge & JMFC,
Krishnarjapura,
Bangalore Rural District.