

IN THE COURT OF ADDL. CIVIL JUDGE AND J.M.F.C.,

AT: CHALLAKERE.

Present: **Sri. PUNITH .B.R.,**
B.A. LL.B.,

Addl. Civil Judge and JMFC., Challakere.

Dated on the 21st day of April 2026

OS No.405/2024

Hanumanthappa

... Plaintiff

//Versus//

Jagadisha.G & another

... Defendants

PARTIES TO I.A. No.III

Hanumanthappa

.... Applicant/Plaintiff

//Versus//

Jagadisha.G & another

.... Opponent/Defendant

Provision under which application is filed	:	U/O 6 Rule 17 r/w Sec.151 of C.P.C.
Relief sought for	:	To amend the plaint
The date on which application is filed	:	09.02.2026
The date on which the objection is filed by the defendants	:	25.02.2026
The date on which the orders passed on the said application	:	21.04.2026

ORDERS ON IA No.III

The present application is filed by the plaintiff under order VI rule 17 of CPC praying this Hon'ble Court to permit the plaint as sought for in the application. The schedule of amendment is as under:

ಷೆಡ್ಯೂಲ್

ವಾದಪತ್ರದ 1 ನೇ ಪುಟದ 1 ನೇ ಪ್ಯಾರಾದ 4 ನೇ ಸಾಲಿನಲ್ಲಿ ವಿಸ್ತೀರ್ಣ ಪೂರ್ವ - ಪಶ್ಚಿಮ ಆದ ನಂತರ "154.90 ಮೀಟರ್ ಮತ್ತು ಉತ್ತರ ದಕ್ಷಿಣ 6.60 ಮೀಟರ್ ಒಟ್ಟು 23.47 ಚದರ ಮೀಟರ್ ವುಳ್ಳ ಎಂಬುದನ್ನು ತೆಗೆದು ಹಾಕಿ, ಆ ಜಾಗದಲ್ಲಿ 6.60 ಮೀಟರ್ ಮತ್ತು ಉತ್ತರ ದಕ್ಷಿಣ 23.47 ಮೀಟರ್ ಒಟ್ಟು 154.90 ಚದರ ಮೀಟರ್ ವುಳ್ಳ" ಎಂತ ಸೇರ್ಪಡೆ ಮಾಡಬೇಕಾಗಿಯೂ ಮತ್ತು

ವಾದಪತ್ರದ 5 ನೇ ಪುಟದ ಷೆಡ್ಯೂಲ್ ನ 4 ನೇ ಸಾಲಿನಲ್ಲಿ ವಿಸ್ತೀರ್ಣ ಪೂರ್ವ - ಪಶ್ಚಿಮ ಆದ ನಂತರ "154.90 ಮೀಟರ್ ಮತ್ತು ಉತ್ತರ ದಕ್ಷಿಣ 6.60 ಮೀಟರ್ ಒಟ್ಟು 23.47 ಚದರ ಮೀಟರ್ ವುಳ್ಳ ಎಂಬುದನ್ನು ತೆಗೆದು ಹಾಕಿ, ಆ ಜಾಗದಲ್ಲಿ 6.60 ಮೀಟರ್ ಮತ್ತು ಉತ್ತರ ದಕ್ಷಿಣ 23.47 ಮೀಟರ್ ಒಟ್ಟು 154.90 ಚದರ ಮೀಟರ್ ವುಳ್ಳ" ಎಂತ ಸೇರ್ಪಡೆ ಮಾಡಬೇಕಾಗಿಯೂ ಮತ್ತು

ವಾದಪತ್ರದ 5 ನೇ ಪುಟದ ಪ್ರಾರ್ಥನೆಯ ಕಾಲಂನಲ್ಲಿ ಈ ಕೆಳಕಂಡಂತೆ ಎ) ಪ್ಯಾರಾದ ನಂತರ ಬಿ) ಪ್ಯಾರಾ ಎಂದು ಸೇರಿಸಬೇಕಾಗಿ ಘನ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಾರ್ಥನೆ.

ಬಿ) ವಾದಿಯೇ ದಾವಾ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಹಕ್ಕುದಾರರು, ಮಾಲೀಕದಾರರು ಮತ್ತು ಸ್ವಾಧೀನಾನುಭವದಾರರೆಂದು ತೀರ್ಮಾನಿಸಿ ಘೋಷಿಸಬೇಕಾಗಿಯೂ'

2. The application is supported by the affidavit of the plaintiff, wherein he has averred that the present suit is filed seeking relief of perpetual injunction against the defendants in respect of suit property. Presently the case is posted for hearing on application filed under order 39 rule 1 and 2. At the time of filing of the suit the extent and measurement of the suit property was wrongly mentioned in the plaint and

relief of declaration of ownership of the suit property was not sought. The said mistake is bonafide in nature. For effective adjudication of matter in dispute the sought amendment is necessary. Neither the cause of action nor the nature of suit changes by the sought amendment. No hardship or injury would be caused to defendants if the application is allowed. Contending as above the plaintiff pray for allowing of the application.

3. Per contra the defendants have filed objection to the application. The defendants contend that when the case is stood for hearing on application filed under order 39 rule 1 and 2, the present application seeking amendment is not maintainable. The present suit is filed seeking relief of perpetual injunction against the defendants but the amendment sought changes the nature of suit from bare injunction suit to suit for declaration and perpetual injunction. Nature of cause of action will also change. The present application is filed with only intention to protract the proceedings. Contending as above and that no justifiable grounds are furnished the defendants pray for dismissal of the application.

4. On the basis of the above, point for consideration is that:

“Whether the plaintiff has made out sufficient grounds to allow the I.A.No.III U/o VI rule 17 of CPC?”

5. Heard arguments. Perused materials on record.

6. My findings on the above point is in the "Affirmative" for the following:

REASONS

7. The ultimate purpose of any judicial proceedings is to impart justice to the parties. The court cannot go away with the strict technicalities of law. The court has to consider over all circumstances and

shall be liberal while dealing with any application for amendment of the pleading. If an amendment does not change or alter the nature of the suit or it will not take-away any defence accrued in favour of the opposite party and if the court is satisfied that such amendment is very much necessary for proper adjudication of the matter in dispute between the parties and thereby to avoid multiplicity of litigation, definitely, the court has got ample power to allow such application. It is settled law that amendment ought to be allowed, if it satisfies two conditions:

- (a) of not working injustice to the other side
- (b) of being necessary for the purpose of determining the real questions in controversy between the parties.

8. Further in decision reported in ***AIR 2008 SC 2234 (Chander Kanta Bansal V/s. Rajinder Singh Anand)***, wherein, the Hon'ble Court held that, in amendment of pleadings, the court should be liberal while exercising its discretion, but care should be taken to see that injustice and prejudice would not be caused on the opposite party and the reason for amendment is to curtail delay and expedite hearing of the cases. In yet another decision reported in ***AIR 2006 SC 1647 (Rajesh Kumar Aggarwal and others V/s K.K.Modi and others)***, the Hon'ble Court held that the object of the rule is that, courts should try the merit of the case that come before them and should consequently allow all amendment that may be necessary for determining the real questions in controversy between the parties, provided it does not cause injustice or prejudice to the other side.

9. In the light of the above settled principles, this Court has carefully examined the averments made in the affidavit filed in support of the application and the objections raised by the defendants. It is the

specific case of the plaintiff that due to inadvertence, the extent and measurement of the suit schedule property have been wrongly mentioned and that the relief of declaration of ownership has not been sought at the time of filing of the suit. The plaintiff now seeks to rectify the said mistake and incorporate the relief of declaration along with consequential relief of injunction.

10. On perusal of the plaint and the proposed amendment, it is evident that the dispute between the parties pertains to the same suit schedule property. The proposed amendment does not introduce a completely new or inconsistent case, but seeks to elaborate the existing claim by adding the relief of declaration, which appears to be incidental and necessary for complete adjudication of the dispute. Though the defendants have contended that the amendment would change the nature of the suit from one of bare injunction to declaration and injunction, it is to be noted that the core issue, namely the right, title, and possession over the suit property, remains the same. The proposed amendment only enables the Court to adjudicate the real controversy in a more effective manner. Further, the proceedings are still at the stage of hearing on the application filed under Order XXXIX Rules 1 and 2 of CPC, and the trial has not yet commenced. Hence, no irreparable prejudice would be caused to the defendants if the amendment is allowed. The defendants will have sufficient opportunity to file additional written statement and contest the amended pleadings. The contention of the defendants that the application is filed to protract the proceedings does not hold much force, in the absence of material to substantiate mala fide intention. On the contrary, refusal to allow the amendment may result in multiplicity of proceedings, as the plaintiff may be driven to file a separate suit for declaration.

11. In view of the above discussion, this Court is of the considered opinion that the proposed amendment is necessary for determining the real question in controversy between the parties and does not cause such prejudice to the defendants which cannot be compensated in terms of costs. Accordingly, the point for consideration is answered in the **Affirmative**.

ORDER

The IA.No.III filed by the plaintiffs U/o. VI rule 17
is hereby allowed on cost of Rs.200/-.

The plaintiff is hereby permitted to amend the
plaint as prayed for in the I.A.No.III.

[Dictated to the Stenographer directly on computer, typed by him, corrected, signed and then pronounced by me in the open Court on 21st day of April 2026]

(PUNITH .B.R.)
Addl. Civil Judge & JMFC.,
Challakere.

The IA.No.III filed by the plaintiffs U/o. VI rule 17 is hereby allowed on cost of Rs.200/-.

The plaintiff is hereby permitted to amend the plaint as prayed for in the I.A.No.III.

For amendment and amended plaint.

Call on: