

KACM200003152017



IN THE COURT OF SENIOR CIVIL JUDGE,
AT: KADUR

Present:- Sri. IRFAN.

B.A., LL.B.,

Senior Civil Judge & JMFC,
Kadur, Chikkamagaluru District.

Dated: this the 10th day of September - 2025

O.S. No. 25/2017

Plaintiff : Sri. Sabjan Sab.

(By: Sri. N.S., Advocate)

-V/s-

Defendants: Sri. Abdul Basheer Sab & others.

(Defendants No.1 and 2 by: Sri. S.N.G., Advocate)

(Defendants No.3 to 5 – Exparte)

RANK OF THE PARTIES ON I.A.NO.14 to 16

Applicant/

Plaintiff : Sri. Sabjan Sab.

V/s

Opponents/

Defendants: Sri. Abdul Basheer Sab and others.



i	<i>Provision under which the applications are filed</i>	<i>IA No.14 - U/O VI Rule 17 R/w Sec.151 of CPC</i> <i>IA No.15 – U/O VII Rule 14(3) R/w Sec.151 of CPC.</i> <i>IA No.16 - U/O I Rule 10(2) R/w Sec.151 of CPC.</i>
ii	<i>Relief sought for</i>	<i>IA No.14 - Amend the plaint</i> <i>IA No.15 – Permit the plaintiff to produce the enlisted documents by condoning the delay.</i> <i>IA No.16 – Implead the proposed defendants as additional defendants.</i>
iii	<i>The date on which the applications are filed</i>	<i>18.03.2025.</i>
iv	<i>Number of the applications</i>	<i>14 to 16</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>Objections filed on IA No.14 and 16 by the defendants No.1 and 2 on 28.06.2025 and further they have submits no objections to allow the IA No.15.</i> <i>The proposed defendants No.6 to 9 have filed objections on IA No. 16 on 05.08.2025.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>10.09.2025.</i>

When the case is posted for arguments, the plaintiff has filed IA No.14 to 16.

**COMMON ORDERS ON I.A.14 to 16**

These interim applications have been filed by the plaintiff, U/O VI Rule 17 R/w Sec.151 of CPC seeking for the insertion of additional pleading to the plaint, U/O VII Rule 14(3) R/w Sec.151 of CPC and prays to permitting him to produce enlisted documents by condoning the delay and U/O I Rule 10(2) R/w Sec.151 of CPC seeking to implead proposed defendants as defendants No.6 to 15, in the interest of justice and equity.

2. These applications are accompanied by separate affidavits, wherein it is contended that after filing this suit, the defendants No.1, 2 and 10 to 15 are entered into the registered partition with respect to suit schedule property on 29.10.2020 and changed the katha in their favour and the said partition is not binding on him. Hence, it is just and necessary to amend the plaint. The plaintiff under IA No.15 contended that on the previous date of hearing he could not produce some documents in his chief-evidence and said documents are recently available. Hence, prays to permit him to produce the documents by condoning the delay. The plaintiff under IA No.16 contended that the defendant No.1 has sold the suit



item No.1 property to an extent of 2 acres 20 guntas to the proposed defendant No.6 through a registered sale deed dated 23.06.1992 and has also sold the portion of suit item No.1 property to an extent of 1 acre to the proposed defendant No.6 through registered sale deed dated 16.07.1993 and both the sale deeds are not binding on his share. The proposed defendants No.7 to 9 are the children of defendant No.6. After that the defendants No.6 to 9 have entered into oral partition and changed the katha in their favour and oral partition is not binding on his share. After filing of the suit, the defendants No.1, 2 and 10 to 15 are entered into the registered partition with respect to suit schedule property on 29.10.2020 and changed the katha in their favour. The said partition deed is not binding on his share. The katha of suit schedule item No.2 stands in the name of 1st defendant and defendants No.13 to 15, hence, they are made as party to the suit. Accordingly, sought to allow these applications.

3. The defendants No.1 and 2 have filed objections to IA No.14 and 16 by contending that the plaintiff has filed the said suit for the relief of partition and such other reliefs with respect to suit schedule



properties in the year 2017 and the defendants have filed their written statement on 04.11.2019 and in the written-statement, the defendants have taken specific contention that some of the property was sold in the year 1992, it shows that the plaintiff is very well know the said fact on 04.11.2019 itself. Now the plaintiff is sought the proposed amendment by filing the application is time barred one and the plaintiff has no right to seek the alleged proposed amendment after lapse of more than six years from the date of knowledge. The proposed amendment is not necessary to dispose the said IA in accordance with law. The law is not permitting the plaintiff to seek the time barred amendment. If the court permit the plaintiff to amend the plaint then the nature of suit will changed and there may be a more chances to lead the multiplicity of proceedings. There is no any convincing or truthfulness in his affidavit filed by the plaintiff. The plaintiff has not made any efforts to impleading / adding the said purchaser as a defendant in the suit since from 2019. The proposed defendants are not necessary to adjudicate the suit in accordance with law. Only to drag on the proceedings, the plaintiff has filed the said application. Hence, prays to dismiss the IA No.14 and



16 with exemplary cost. The defendants No.1 and 2 submits no objections to allow the IA No.15.

4. After service of notice on IA No.16, the proposed defendants No.6 to 9 appeared through their counsel and filed objections, wherein they have contended that they are noway concerned to this suit and they are not the necessary parties and hence, the question of impleading them to proceed with the case does not arise at all. The proposed defendants No.6 to 9 have further contended that the landed property measuring 3-20 acres out of 12-17 acres in Sy.No.119 belonged to Sri. Abdul Basheer Sab, who has sold an extent of 1-00 acre of land out of 3-20 acres in favour of Sri. Khalandar Khan under a registered sale deed dated 16.07.1993 and 2-20 acres on 23.06.1992 and put the said Sri. Khalandar Khan in possession over the said properties. Those properties are not the joint family property either the plaintiff or defendants. The aforesaid 3-20 acres of land has been divided amongst the proposed defendants No.7 to 9 under oral partition, wherein it is claimed that the katha of the said properties are also mutated in the names of respective sharers. The plaintiff in spite of being fully aware that he has no right over the said property, has filed this



false application in order to cause trouble to the proposed defendants. Accordingly, sought to dismiss the application.

5. Heard both side. Perused the case records.

6. The following points that arise for consideration are;

1. Whether the proposed amendment is necessary for determining the real dispute in controversy between the parties?
2. Whether the plaintiff has made out grounds to condone the delay in production of enclosed documents to IA No.15?
3. Whether the proposed defendants are proper and necessary parties to the suit on hand?
4. What order?

7. Answers to the above points are as under;

Point No.1 : In the Affirmative;



Point No.2 : In the Affirmative;

Point No.3 : In the Affirmative;

Point No.4 : As per final order
for the following;

REASONS

8. **Points No.1 to 3** :- These points are taken together for common discussion to avoid repetition of facts.

The present suit is one for the relief of partition and separate possession, wherein the plaintiff has claimed 2/7th share in the suit schedule properties. It is a matter of fact that the 1st defendant has filed his written statement on 02.12.2019 before this court and same was adopted by the 2nd defendant herein. In the said written statement under para No.6, there is a reference regarding the sale of an extent of 1-38 acres in favour of Sri. Mehaboob Sab. The sale deeds dated 23.06.1992 and 16.07.1993 produced alongwith these IAs also discloses that the said sale transactions are taken place pertaining to a portion of suit schedule item No.1 property involving the 1st defendant and proposed defendant No.6. It is not in dispute that the proposed defendants No.7 to 9 are the family members of proposed defendant No.6, who claiming to have



entered into oral partition amongst them with respect to the disputed properties on hand. No doubt, the said sale transactions are taken place prior to the institution of this suit, but as the suit claim of the plaintiff is pertaining to entire extent of 12-17 acres in Sy.No.119 of Hulikere Village, the proposed defendants who are the purchaser and sharers under oral partition are found to be proper and necessary parties for the effective adjudication of the suit on hand. It is further essential to note that the 1st defendant in his objection has taken a specific defence that though the aspect of sale transaction was disclosed in his written-statement during 2019 itself, but the plaintiff has filed these applications belatedly after six years and therefore, it is claimed that the same is hopelessly barred by limitation. This aspect cannot be considered at this stage and in view of the specific defence, the plaintiff shall be permitted to implead the purchasers and others who are involved in the subsequent oral partition. The amendment to the plaint is also sought seeking to incorporate the series of events that are taken place pertaining to the aforesaid transactions and in consideration of the discussions held above, it is found essential to permit the plaintiff to carry out the proposed amendment in the plaint since the same does



not change the nature of suit or cause of action. An application is also filed seeking leave of the court to produce the documents pertaining to the sale transactions referred above as well as partition deed dated 29.11.2020, which are pertaining to the disputed property on hand, the said documents are found to be very relevant. Hence, the delay in production of the same is necessary to be condoned. Accordingly, the **points No.1 to 3 under consideration are answered in the Affirmative.**

9. **Point No.4** :- In view of the discussion in the foregoing point, the following;

ORDER

I.A.14 filed by the plaintiff,
under Order VI Rule 17 R/w
Sec.151 of CPC is allowed
with costs of Rs.500/-.

I.A.15 filed by the plaintiff,
under Order VII Rule 14(3)
R/w Sec.151 of CPC is
allowed with costs of
Rs.500/-.

The documents filed along
with IA No.15 are taken on
record.



I.A.16 filed by the plaintiff,
under Order I Rule 10(2) R/w
Sec.151 of CPC is allowed
and the plaintiff is permitted
to implead the proposed
defendants as defendants
No.6 to 15.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by
me in open Court on this the 10th day of September, 2025)

Sd/-
(IRFAN)
Senior Civil Judge,
Kadur.