



**IN THE COURT OF THE II ADDITIONAL CIVIL JUDGE
AND JMFC, KADUR.**

Present: -Sri. Thahakaleel K.A., B.A., LL.B.,
II Addl. Civil Judge & JMFC.,Kadur.

Dated: This 18th Day of February 2026

O.S.No.204/2017

PLAINTIFF/S:

Sri. Rangaswamy
S/o Late Basappa A.R
Aged about 59 years,
Agriculturist,
R/o Kannenahalli Village,
Chikkangala Post, Birur Hobli,
Kadur Taluk, Chikmagalur
District.

(Rep. By Sri. C.L.D., Advocate)

V/S

DEFENDANT/S

1. Sri. K.R.Shivalingappa
S/o Late. Rangaiah,
Since dead by his LR's
- 1(a) Smt.Jayamma
W/o Late.K.R. Shivalingappa,
Aged about 74 years,
Agriculturist,
- (b) Sri. Ranganatha
S/o Late K.R.Shivalingappa,
Aged about 56 years,
Agriculturist,
- (c) Sri. Ananda
S/o Late K.R.Shivalingappa,
Aged about 49 years,
Agriculturist,

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D-1(a) to (c) are all
R/o Kannenahalli Village,
Chikkangala Post, Birur Hobli,
Kadur Taluk, Chikmagalur
District.

- (d) Smt. Kamalamma
W/o Late Kalegowda,
Aged about 61 years,
Agriculturist,
R/o Kamanakere Village,
Kadur Taluk
- (e) Smt. Bhagya
W/o Shivanna,
Aged about 53 years,
Agriculturist,
R/o Agrahara, Kamanakere
Village. Kadur Taluk,
- (f) Smt. Pushpa
W/o Mallikarjuna,
Aged about 51 years.
Agriculturist,
R/o Nagaralu Village,
Sakharayapatana Hobli, Kadur
Taluk, Chikkamagalur District.
- (g) Smt. Meenakshi
W/o Shivakumar,
Aged about 47 years,
Agriculturist,
R/o Siddaramanahalli Village,
Kasaba Hobli, Kadur Taluk.

**(D-1(c) Rep. By Sri. B.R., Advocate
D-1(a, b, d-g)- Exparte)**

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Parties to I.A No.XI

Between **Rank in I.A.** **Rank in suit**
Sri. Ranganatha **Applicant/s** **Defendant No.1(b)**
V/S
Sri. Rangaswamy **Opponent/s** **Plaintiff**

Sl. No.	Subject	Remarks
1	Provision under which the application is filed	Order 6 Rule 17 R/w Section 151 CPC
2	Relief sought for	Amend the written statement
3	The date of which the application is filed	15.09.2023
4	Number of the application	I.A.No.XI
5	The date of which the objections are filed by different opponents.	I.A.No.XI on 13.08.2025 By the Plaintiff
6	The date of Order.	18.02.2026

ORDERS ON I.A No.XI FILED BY THE DEFENDANT
No.1(b) UNDER ORDER 6 Rule 17 R/w Section 151
C.P.C.

The plaintiffs have filed the present suit seeking the reliefs of declaration and permanent injunction. During

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the pendency of the suit, the defendant No.1(b) has filed I.A. No.11 under Order VI Rule 17 of the Code of Civil Procedure, seeking permission to amend the written statement by deleting paragraphs Nos. 8, 9 and 10 and by incorporating new facts in their place.

2. It is stated by the defendant No.1(b) that at the time of filing the written statement, due to inadvertence and want of proper knowledge, he was not in a position to assert the correct facts, as he had not secured the relevant documents such as Records of Rights, Index of Lands and old manual RTC extracts, which are necessary to ascertain the flow of the suit schedule property through inheritance. It is further stated that due to non-availability of the said documents, he could not furnish complete and accurate instructions to his learned counsel, and therefore the written statement was filed without proper particulars.

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3. It is further stated that after obtaining and perusing the aforesaid documents, the defendant No.1(b) came to know the real facts relating to the partition, including the allotment of shares and the mode of allotment. Hence, it has become just and necessary to amend the written statement by deleting paragraphs Nos. 8, 9 and 10 and by incorporating the true and correct facts.

4. It is contended that the proposed amendment does not change the nature of the defence and is required for proper adjudication of the real controversy between the parties. It is further contended that if the application is not allowed, the defendant No.1(b) will be put to great hardship and irreparable injury, which cannot be compensated in terms of costs. On the other hand, no prejudice will be caused to the plaintiffs if the application is allowed.

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5. Hence, the defendant No.1(b) has prayed to allow I.A. No.11 in the interest of justice.

6. On the other hand, the plaintiffs have filed their objections to I.A. No.11 contending that the defendants have filed the present application only with an intention to protract the proceedings. It is further contended that the affidavit filed in support of the application contains false averments. It is contended that the proposed amendment is inconsistent with and contrary to the original written statement already filed by the defendant.

7. It is further contended that the proposed amendment would change the nature of the defence and cause serious prejudice to the plaintiffs. Hence, the plaintiffs have prayed to dismiss I.A. No.11 with costs.

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8. Heard arguments from both sides, perused materials available on record, the following points would arise for the determination of this court.

1. Whether the defendant No.1(b) has made out sufficient grounds to allow I.A. No.11 filed under Order VI Rule 17 of CPC seeking amendment of the written statement by deleting paragraphs Nos. 8, 9 and 10 and by incorporating new facts?
2. What Order?

9. The answer of this court for the above points are as follows:

- | | | |
|------------|---|---|
| Point No.1 | : | In the Affirmative, |
| Point No.2 | : | As per the final Order for the following; |

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

10. Point No.1:- The present suit is one for declaration and permanent injunction. It is a settled principle of law that in a suit for declaration, the plaintiffs must succeed on the strength of their own case and on the basis of independent and cogent evidence. The burden of proof squarely lies upon the plaintiffs to establish their title and possession over the suit schedule property. The pleadings or admissions, if any, on the part of the defendant do not dispense with the obligation of the plaintiffs to prove their case in accordance with law.

11. In the instant case, the defendant No.1(b) has filed I.A. No.11 under Order VI Rule 17 of CPC seeking amendment of the written statement by deleting paragraphs Nos. 8, 9 and 10 and by incorporating additional facts relating to partition, allotment of shares and mode of allotment. The reason assigned by the

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defendant No.1(b) is that at the time of filing the written statement, he had not secured relevant revenue documents such as Records of Rights, Index of Lands and old manual RTC extracts, which are necessary to trace the flow of the suit schedule property through inheritance. It is further explained that due to non-availability of the said documents, proper instructions could not be furnished to the learned counsel, resulting in filing of the written statement without complete particulars.

12. On perusal of the application and the proposed amendment, it is evident that the amendment sought is based on documents which have subsequently come into the possession of the defendant No.1(b). The explanation offered cannot be brushed aside as mala fide or intended solely to delay the proceedings. Courts are required to take a liberal approach while considering applications for

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amendment of pleadings, especially when such amendment is sought to place the real and complete facts before the Court for effective adjudication of the dispute.

13. The contention of the plaintiffs that the proposed amendment is inconsistent with the original written statement and would change the nature of the defence cannot be accepted in the facts of the present case. A defendant is entitled to take alternative or additional pleas, and mere inconsistency in defence cannot be a ground to reject an amendment, so long as it does not withdraw an admission already made or cause irreparable prejudice to the opposite party. In the present case, no accrued right of the plaintiffs is taken away by allowing the amendment.

14. It is also pertinent to note that the trial has not yet concluded and no evidence is shown to have been

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irreversibly affected by the proposed amendment. The plaintiffs will have sufficient opportunity to meet the amended pleadings, including by filing additional pleadings and leading rebuttal evidence, if so advised. Any inconvenience caused to the plaintiffs can be adequately compensated by costs.

15. The object of Order VI Rule 17 of CPC is to avoid multiplicity of proceedings and to ensure that the real controversy between the parties is adjudicated in one lis. Denial of the amendment would compel the defendant No.1(b) to seek remedies in separate proceedings, which would not serve the ends of justice.

16. Considering the nature of the suit, the stage of the proceedings, the explanation offered by the defendant No.1(b), and the absence of serious prejudice to the plaintiffs, this Court is of the considered view that the

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proposed amendment is necessary for the just and proper adjudication of the case. Accordingly, **Point No.1 is answered in the Affirmative.**

17. Point No.2:- In view of the findings recorded on Point No.1, this Court has come to the conclusion that the defendant No.1(b) has made out sufficient grounds to allow I.A. No.11 filed under Order VI Rule 17 of the Code of Civil Procedure. The proposed amendment is necessary for effective adjudication of the real controversy between the parties and no serious prejudice would be caused to the plaintiffs if the amendment is allowed.

18. However, considering the objections raised by the plaintiffs and to balance the equities between the parties, it is just and proper to allow the application by imposing costs and by fixing a time limit for filing the amended written statement. This would safeguard the

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interest of the plaintiffs and prevent unnecessary delay in the disposal of the suit. Accordingly, I proceed to pass following;

ORDER

I.A. No.11 filed by the defendant No.1(b) under Order VI Rule 17 of CPC is hereby **allowed.**

The defendant No.1(b) is permitted to amend the written statement subject to payment of costs of ₹500/-.

The amended written statement shall be filed within **7 days** from the date of this order.

(Order dictated to the stenographer on computer typed by her, revised, corrected & then pronounced by me in open court on this the 18th day of February 2026).

(THAHAKALEEL K.A)
II Addl. Civil Judge and JMFC
Kadur.

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