



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C. AT N.R.PURA, ITINERATE AT KOPPA**

Present: Sri Raghunatha Gowda K.T.B.Com.,L.L.B,
Senior Civil Judge & J.M.F.C. N.R.Pura, Itinerate at Koppa

Dated this the 21st day of February, 2026

O.S. No.5/2023

Plaintiffs : Sri. H.R. Shivappa Gowda,
S/o. Late. Rame Gowda,
Aged about 52 years,
R/o. Hillikere, Hillikere Village,
Megunda Hobli, Koppa Taluk,
Chikkamagaluru District – 577 117.

(By Sri H.H.K., Advocate)

V/s

Defendants: 1. Sri. H.A. Channakeshava,
S/o. Late. Annappa Gowda,
Aged about 45 years,

2. Smt. Chinnamma,
W/o. Late. Annappa Gowda,
Since dead by Lrs

2(a). H.A.Nagappa gowda,
S/o. Late Annappa Gowda,
Aged about 65 years,
R/o. Hanchinamane,



Hillikere Village,
Megunda Hobli,
Koppa Taluk.

- 2(b) H.A. Srinivasa Gowda,
S/o. Late Annappa Gowda,
Aged about 60 years,
R/o. Hanchinamane,
Hillikere Village,
Megunda Hobli,
Koppa Taluk.
- 2(c) Smt. Jayalaxmi,
D/o. Late. Annappa Gowda,
Aged about 63 years,
W/o. Beeme Gowda,
R/o. Chirukumbri,
Hunasehalli, Jengadde Post,
Chikkamagalur Taluk & District.

(Defendants are represented by Sri.B.K.V., Advocate)

I.A. No.VIII and IX

Applicant/Plaintiff : Sri. H.R. Shivappa Gowda

V/s

Opponents/ Defendants : Sri. H.A. Channakeshava & One

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COMMON ORDERS ON I.A. No.VIII and IX

When the matter posted for arguments on merits, at this stage this I.A. No.VIII and IX are filed by the plaintiff under Order VI Rule 17 R/w Sec-151 of C.P.C. to recall and re-open the case and seeking permission to amend the plaint i.e. proposed amendment.

a. To declare that the plaintiff is the absolute owner of 'A' schedule property.

b. To direct the defendants to hand over the possession of 'B' schedule property to the plaintiff.

c. For consequential relief of permanent injunction against the defendants , their men, agents, any body claiming through them.

d. For court cost and such other reliefs as this honble court deems fit to grant under the circumstances of the case in the ends of justice.

2. It is stated in the affidavit of the plaintiff that he filed the suit against defendants for the relief of



possession of 'B' schedule property which is encroached by the defendants and B schedule property is portion of A schedule property which is encroached by defendant. Further he contended that defendants are denied his title in the 'A' and defendants are trying to encroach some more portion of 'A' schedule property. Hence the proposed amendment is very much necessary to adjudicate the matter and if the application is allowed no loss or hardship caused to the defendants. Hence, he prays to allow this application.

3. Per contra, the defendants counsel filed objection to said application contended that the application filed by the plaintiff is not maintainable either in law or facts. Further he contended that the proposed amendment sought by the plaintiff it will affect to written statement and when the matter reached final stage at this stage the present application is not maintainable. Further he contendedc that if the proposed amedment sought by the plaintiff is allowed it will affect the defence of defendant and in order to prolong the matter the present



application is filed. Hence he prays to reject the said applications with exemplary costs.

4. Heard learned counsel for plaintiff and defendants and perused the materials on record.

5. The following point arises for my consideration:

- i) Whether the application filed by the plaintiff deserves to be allowed?
- ii) If so, what order?

6. My answer to the above points are as follows :

Point No. 1 : In the Affirmative.

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

REASONS

7. **POINT No.1 :-** The plaintiff filed this suit against the defendants for relief of possession and now matter is posted arguments on merits, at this stage the plaintiff filed these applications to seeking the amendment of plaint as stated in the earlier paragraph of this order.



8. I have gone through the entire materials available on record the plaintiff seeking amendment of the plaint to insert additional relief in prayer portion that to declare that plaintiff is absolute owner of 'A' schedule property and direct the defendants to handed over the possession of 'B' schedule property and consequential relief of permanent injunction and in order to effective adjudicate of the matter and to resolve the dispute between the parties the proposed amendment is very much necessary. Further several judgments of the Honble Apex court as well as High court held that mere suit for possession without seeking relief of declaration is not maintainable.

9. Further i relied on the judgment reported in **2022 (3) KCCR 2078 in between Smt. Sarojamma and another V/s A.Y. Anilkumar**. In the said judgment at para No.5 the Hon'ble High Court held that the amendment given the real nature of controversy, would be necessary for effective and complete adjudication. Under such circumstances the amendment application can be allowed. Further moreover in order to avoid multiplicity of proceeding between the parties and also



the court will comes to proper conclusion the amendment is necessary and if the amendment application is allowed no loss or harm caused to the other side and this court is of considered opinion that, the proposed amendment do not in any manner change the nature of the suit and would not cause prejudice to the other side and plaintiff seeking additional relief of declaration of owner ship in respect of suit property and the defendants are right to file the additional written statement to amended plaint and the burden lies on the plaintiff to prove the same what he has sought in the plaint. Thus, in order to effectually adjudicate the controversy involved in the suit and to avoid multiplicity of proceedings, it is just and necessary to amend the plaint and in order to delay of filing this application by the plaintiff to impose a suitable costs. Accordingly aforesaid point for consideration is answered in the Affirmative.

10. **POINT No.2** :- In view of my findings on Point No.1, I proceed to pass the following :-



ORDER

*I.A. No.VIII and IX filed by the
plaintiff under order VI Rule 17 r/W,
Sec-151 of C.P.C. is hereby allowed
with costs of Rs.200/-.*

*The plaintiff is permitted to
amend the plaint and also furnish the
amended plaint.*

(Dictated to the stenographer directly on computer, corrected by me and
then pronounced in open court on this 21st day of February 2026)

Sd/-
(Raghunatha Gowda K.T.)
Senior Civil Judge & J.M.F.C.
N.R.Pura iternate At Koppa.