



**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 2nd day of August, 2025

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,
Aged about 77 years,

Both are R/at.Hillikere, Hillikere Village,
Megunda Hobli, Koppa Taluk,
Chikkamagaluru District – 577 117.

(Defendant No.1 and 2 are represented by Sri.B.K.V.,
Advocate)



I.A. No.VII

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

V/s

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

* * *

ORDERS ON I.A. No.VII

When the matter posted for arguments on merits, at this stage this I.A. No.VI is filed by the plaintiff under Order VI Rule 17 of C.P.C. seeking permission to amend the plaint i.e. proposed amendment.

1. In the page No.4 of the plaint in schedule B property in first line 0-20 acre be deleted and 0-25 acre and 2 guntas karab be inserted.

2. It is stated in the affidavit of the plaintiff that he filed the suit against defendants for the relief of possession. Further he contended that he is absolute owner of property measuring 1 acre 30 guntas in Sy. No.10/3 of Hillikere village more fully described as A schedule property and B schedule property is portion of A schedule property which is encroached by defendant. Further he contended that this court appointed ADLR



Koppa as court commissioner to conduct the survey and identified the land A and B schedule, in pursuant the court commissioner conducted commissioner work in the presence of parties and submit a report on 22/11/2024.

3. Further he contended that commissioner in his report shown that defendants have encroached 0.25 guntas and 2 guntas karab land in Sy.No.10/3 of Hillikere village which belongs to him. Further he contended that at the time of filing the suit defendants have encroached approximately 20 guntas and encroached 5 guntas and phot karab of 2 guntas by removing the fence erected by me day to day process and forcibly encroached and in possession of 7 guntas including karab land belongs to himself. 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.

4. 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 plaintiff is not stated in the plaint that 2 guntas of karab land is within the plaint schedule property and in the partition deed there is no where mentioned the karab land and no document produce by the plaintiff and if the application is allowed the nature of suit will be changed and it will affect to the written statement. Hence he prays to reject the application with exemplary costs.

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

6. The following point arises for my consideration:

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

7. 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

8. **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 this application to seeking the amendment of plaint as stated in the earlier paragraph of this order.

9. I have gone through the entire materials available on record the plaintiff seeking amendment of the plaint to insert extent of encroached by the defendants based on commissioner report. Further admittedly in the present the ADLR Koppa appointed as court commissioner to conducted the commissioner work and submit his report. Thereafter commissioner submit his report and the said commissioner examined as CW-1. Further at the time of filing the suit plaintiff seeking possession of 20 guntas encroached by defendants. Further per report of the commissioner the subsequent event can be seeking for by way of amendment in the plaint that *In the page No.4 of the plaint in schedule B property in first line 0-20 acre be deleted and 0-25 acre and 2 guntas karab be inserted.* and in order to effective adjudicate of the matter and to



resolve the dispute between the parties the proposed amendment is very much necessary.

10. 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 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.

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

O R D E R

*I.A. No.VI filed by the plaintiff
under order VI Rule 17 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 **2nd day of August, 2025**)

Sd/-
(Raghunatha Gowda K.T.)
Senior Civil Judge & JMFC.,
N.R.Pura iternate At Koppa.