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**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT TARIKERE**

Present: Smt.Urmila.V. B.A.L., LL.B.,
I Addl. Civil Judge & JMFC, Tarikere.

Dated: 5th Day of March 2026

ORIGINAL SUIT NO.134/2012

PLAINTIFF/s :

- 1) Smt.Parvathi W/o Ravi, aged 40 years,
- 2) Smt.Rukmini W/o Thirnakaras @ Manju, aged 25 years,
- 3) Smt.Mohini W/o Rajappa, aged 38 years,
- 4) Annappa S/o late Kannappa, aged 26 years,

Plaintiffs No.1 to 4 are Agriculturists, R/o Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk.

- 5) Panduranga S/o late Kannappa, aged 45 years, Agriculturist, R/o Kolathur Village, Sangaravaram Taluk, Kallagudisi District, Tamil Nadu State.

(Reptd. By : Sri S.V.Ashok Kumar., Advocate.)

Vs.

DEFENDANT/s:

- 1) The State of Karnataka, represented by Deputy Commissioner, Chikkamagaluru District.

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2) The Tahasildar, Tarikere Taluk, Tarikere Town.

3) G.S.Vasanthkumar S/o late Siddalingappa, aged 50 years, Agriculturist, R/o Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk.

(D.1 & 2 : By learned Addl. Govt. Pleader.

D.3 : By Smt.Savith.M., Advocate)

PARTIES TO I.A.NO.XIV

Applicant/s : Smt.Parvathi and others

Vs.

Opponent/s : State of Karnataka and others

i	Provision under which the application is filed	Order VI Rule 17 r/w Section 151 of CPC
ii	Relief sought for	Amendment of plaint
iii	The date of which the application is filed	05.12.2025
iv	Number of application	I.A.No.XIV
v	The date on which the objection are filed by different opponents	D.3 : 19.01.2026
vi	The date on which the orders were passed on the said application	05.03.2026

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**ORDER ON I.A.NO.XIV**

The present I.A., is filed when the matter is set down for further plaintiff evidence.

2. The applicant has filed the instant I.A., under Order VI Rule 17 r/w Section 151 of CPC with prayer be pleased to amend the plaint as sought in the I.A.

Proposed Amendment :

To insert new para after the end of the para No.4 as 4a. The plaint schedule property is shown as Hissa No.1 in the survey sketch, but in the RTC, it is shown as Hissa No.2. The plaintiffs were not aware of the same and they came to know about the same about 2 weeks ago when survey officials visited the land. Some persons claiming themselves as legal heirs of Marimuttu, made an application before the Tahasildar, Tarikere for change of Khatha of the said property. The plaintiff No.1 after knowing the same filed objection to the said application. The Tahasildar rejected the said application vide his order in R.R.T. (D) 15/2014-15 dated 09-10-2014. The said legal heirs of Marimuthu had not filed any appeal against the said order of rejection. But the said persons clandestinely and fraudulently made another application for change of Khatha before the Tahasildar. The said Tahasildar, who earlier rejected the similar application, illegally effected the mutation in M.R. 26/15-16 dated 15-01-16. The plaintiff No.1 filed a revision petition against the said mutation before the Deputy Commissioner. Chikkamagaluru in

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R.P.41/2016-17 and the same was rejected vide order dated 22-10-2024 but some directions were issued to the Tahasildar. As the dispute is pending before this Hon'ble Court. the plaintiffs have not taken steps to question the legality of the said order. The plaintiff No.1 made request seeking transfer of the said revision petition to some other authority, as the said Deputy Commissioner herself is a party to this suit. But the said request was not considered.

4b. The defendant No.3 who has got evil eye over the plaint schedule property colluded with the so called legal heirs of Marimattu and got created a sale deed bearing document No.1195/2016-17 dated 18.05.2016 showing that he is purchaser of the plaint schedule property. But under the said sale deed, the defendant No.3 had not taken the possession of the plaint schedule property. The defendant No.3 is well aware of nature of the possession of the plaintiffs over the plaint schedule property.

Now the defendant No.3 under guise of the said sale intend to take possession of the plaint schedule property.

2. In the schedule of the plaint, after the words and figures 'Sy. No. 79/2', to insert the words '(shown as Hissa No.1 in the survey sketches)'.

3. The I.A., is annexed with the affidavit of plaintiff No.1. It is stated in the affidavit that, she is also swearing affidavit on behalf of other plaintiffs. It is further submitted that

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during the pendency of the suit, revision petition filed before the D.C., Chikkamagaluru was disposed of. The defendant No.3 got himself impleaded as defendant in the suit on the basis of a sale deed. The plaint schedule property is shown as Hissa No.1 in the survey sketch, but in the RTC, it is shown as Hissa No.2. The plaintiffs were not aware of the same and they came to know about the same about 2 weeks ago when survey officials visited the land and as such, she is advised to bring the said facts on record through amendment of the plaint by stating subsequent happenings. As the matter was disposed of by the LGC and later they made an application for sending the case to this Court, they could not make application in time. It is further submitted that, the proposed amendment will not alter the nature of the suit and it is only mentioning about the subsequent happenings after filing of the suit. If the application is not allowed, they will be put to irreparable loss and untold hardship and may be put to multiplicity of legal proceedings and on the other hand, no prejudice will be caused to other side if the I.A., is allowed. Hence, this I.A.

4. The copy of the I.A., served to the other side. The defendant No.3 has filed detailed objections and resisted the I.A., filed by the applicant and interalia contended that, the

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application filed by the plaintiffs is not maintainable either in law or on facts and is liable to be rejected in limine. The suit is of the year 2012 and the plaintiffs have filed the present application for amendment at a highly belated stage, after several years and after defendant No.3 has been impleaded and filed his detailed written statement. The plaintiffs have not shown any due diligence as required under the proviso to Order VI Rule 17 CPC. It is further stated that the proposed amendment is not a simple or formal amendment and by introducing new pleadings regarding Hissa number, mutation proceedings, revision proceedings and by making false and reckless allegations against defendant No.3 and his registered sale deed dated 18.05.2016, the plaintiffs are trying to change the entire nature and character of the suit.

5. It is further stated that under the guise of amendment, the plaintiffs are attempting to introduce a totally new cause of action and new set of facts, which were never pleaded earlier. The allegations sought to be introduced against defendant No.3, that he has colluded with legal heirs of Marimuthu and created a sale deed, are false, vexatious, baseless and defamatory. The sale deed in favour of defendant No.3 is a valid registered document and defendant No.3 is in lawful possession and enjoyment of the property. It is further

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stated that the plaintiffs were very well aware of the revenue proceedings, mutation entries and the sale transaction much earlier and therefore, the contention that they came to know about the same only recently is false, invented and an afterthought, only to overcome the weakness in their case. It is further stated that if the proposed amendment is allowed, it will seriously prejudice the rights of defendant No.3, who has purchased the property for valuable consideration and is in possession and it will also open a fresh round of litigation, require fresh pleadings and evidence, and defeat the very object of speedy disposal of the suit. The plaintiffs are trying to fill up the lacuna in their case and to overcome the admissions and weaknesses already existing in the pleadings and evidence and law is well settled that amendment cannot be allowed to fill up lacuna or to change the nature of the case and the amendment introduces serious allegations, challenges revenue proceedings and indirectly questions the title of defendant No.3, which were never the subject matter of the original plaint. The plaintiffs have also not sought any consequential relief in respect of the new facts and therefore, the amendment is vague, incomplete and legally unsustainable and the application is filed only to harass defendant No.3 and to protract the proceedings and to drag

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on the matter and not for any bonafide reason. For all these grounds, the defendant No.3 prays for to reject the I.A., filed by the applicant with cost.

6. Heard arguments of both sides.

7. On perusal of the materials placed on record, the following points would arise for my consideration are :

- 1) Whether the I.A.No.XIV filed by the applicants/ plaintiffs is deserves to be allowed?
- 2) What order?

8. My findings on the above points are as follows :

Point No.1 : In the Affirmative,

Point No.2 : As per the order,

for the following:

REASONS

9. **POINT NO.1** : On perusal of the materials available on record, admittedly the plaintiffs have filed the present suit against the defendants for the relief of declaration to declare that they have acquired the title over the suit schedule property by adverse possession and also for permanent injunction against the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs over the

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suit schedule property. When the matter is set down for further plaintiff evidence, at this stage the plaintiffs have filed this instant I.A., to amend the plaint as sought in the I.A.

10. It is the urge of the plaintiffs that during the pendency of the suit, revision petition filed before the D.C., Chikkamagaluru was disposed of, the defendant No.3 got himself impleaded as defendant in the suit on the basis of a sale deed. The plaint schedule property is shown as Hissa No.1 in the survey sketch, but in the RTC, it is shown as Hissa No.2 and the plaintiffs were not aware of the same and they came to know about the same about 2 weeks ago when survey officials visited the land.

11. On the other hand, the defendant No.3 has contended that the plaintiffs have filed the present application for amendment at a highly belated stage, the proposed amendment is not a simple or formal amendment and by introducing new pleadings regarding Hissa number, mutation proceedings, revision proceedings and by making false and reckless allegations against defendant No.3 and his registered sale deed dated 18.05.2016, the plaintiffs are trying to change the entire nature and character of the suit.

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12. At this juncture, I would like to refer Order VI Rule 17 of CPC which reads as follows :

The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

On perusal of the aforesaid provision, it is clear that the parties to the suit are permitted to bring forward amendment to their pleadings at any stage of the proceedings for the purpose of determining the real questions in controversy between them. If such application is made after commencement of the trial, in that event, the court has to arrive at conclusion that in spite of due diligence, the parties could not have raised the matter before the commencement of the trial. In the instant suit, the matter is set down for further evidence of plaintiffs.

13. At this juncture, I would like to refer the decision rendered by the Hon'ble Apex Court of India in the case of

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Rajesh Kumar Aggarwal and others Vs. K.K.Modi and others, the same is reported in **(2006) 4 SCC 385**, wherein **the Hon'ble Apex Court of India** held that:

The court should allow the amendment would be necessary to determine the real question of the controversy between the parties, but the same indisputably would be subject to the condition that no prejudice is caused to the other side.

The ratio laid down in the aforesaid decision is aptly applicable to the present case on hand. Admittedly it is a suit for declaration by way of adverse possession and for permanent injunction against the defendants in respect of the suit schedule property. In a suit for adverse possession, the burden of proof lies entirely on the plaintiffs who must provide clear and unequivocal evidence. He must prove continuous, open, hostile and exclusive possession without the owners permission for 12 years. In the instant suit, the plaintiffs have sought amendment of plaint. On perusal of the contents of amendment sought and on perusal of the materials available on record, it discloses that the defendant No.3 recently impleaded as a party in the present suit and filed his detailed written statement. Therefore, the proposed amendment sought by the plaintiffs in the plaint is very much necessary to determine the real question in controversy

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between the parties. If the proposed amendment is allowed, it will not change the nature of the suit and also cause of action. If the application is allowed, there is no harm caused to the other side. For considering all these reasons, I answer Point No.1 in the Affirmative.

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

ORDER

I.A.No.XIV filed by the plaintiffs under Order VI Rule 17 r/w Section 151 CPC is hereby allowed on payment of cost of Rs.200/-.

The plaintiffs are hereby directed to carry out the necessary amendment in the plaint and to file amended plaint copy in time.

For compliance of court order by :

(Dictated to the Stenographer on computer, computerized by her, corrected by me and then pronounced in the open Court on this the day of 5th day of March 2026.)

sd/-

(URMILA.V)

**I ADDL.CIVIL JUDGE &
J.M.F.C., TARIKERE.**