

**IN THE COURT OF THE PRL. CIVIL JUDGE AND
JMFC., AT GUNDLUPETE**

**PRESENT: Sri. Deepu M.T, B.A.L., LL.B.,
Prl. Civil Judge & J.M.F.C.,
Gundlupet.**

Dated this the 23rd day of APRIL, 2026

OS No:195/2023

Plaintiff : **Suma** W/o Late. Shivanna
Aged about 39 years
R/at: Kamarahalli Village
Beguru Hobli, Gundlupete Taluk.

[By Sri. HSP, Advocate]

V/s

Defendants : **1. Bellamma**
W/o Late. Gurappa
Aged about 50 years

2. Mahesha K. G
S/o Late. Gurappa
Aged about 36 years

3. Rathnamma
D/o Late. Shivanna
Aged about 47 years

The defendant No.1 to 3
are R/at: Belachalavadi Village
Beguru Hobli, Gundlupete Taluk.

4. Mangalamma
W/o Gurupadappa
Aged about 44 years
R/at: Hangala Village and Hobli
Gundlupete Taluk.

5. Madhuchandra

S/o Late. Mahesha
Aged about 20 years

6. Divakara

S/o Late. Mahesha
Aged about 18 years

The defendant No.5 and 6
are R/at: Kurubarahundi Village
Beguru Hobli, Gundlupete Taluk.

7. Kongalappa

S/o Late. Madappa
Aged about 83 years
R/at: Chennajanahundi Village
Kasaba Hobli, Gundlupete Taluk.

8. J Dhanalakshmi Devi

W/o L Pandurangareddy
Aged about 46 years
R/at: No.472, 'Atreyas'
E-Block, J. P Nagarajappa
Mysuru-570008.

9. Prabhushankara S

S/o Late. S Srinivas
Aged about 55 years

10. Pushpalatha K

W/o Prabhushankar S
Aged about 51 years

The defendant No.9 and 10
are R/at: Near Maruthi Temple
Gangothri Layout, Mysuru.

**[By Sri. GR, Advocate for D1 to 6]
 [By Sri. PB, Advocate for D7]
 [D8 : Absent]
 [D9 and 10 : Exparte]**

Parties to I.A No.IV

Applicants : K. G Mahesh

- Defendant No.2

V/s

Opponent : Suma

- Plaintiff

i.	Provision under which the application is filed	VI Rule 17 of Code of Civil Procedure
ii.	Relief sought for	For amendment of plaint
iii.	The date on which the application is filed	18.12.2025
iv.	Number of the application	VI
v.	The date on which the objections are filed by different opponents	14.01.2026
vi.	The date on which the orders were passed on the said application	23.04.2026

Case stage: Cross of PW-1

ORDERS ON I.A.NO.VI

The defendant No.2 has filed this application under Order VI Rule 17 of Code of Civil Procedure praying permission to amend the written statement as

mentioned in the application. The proposed amendment is as follows:

ಉದ್ದೇಶಿತ ತಿದ್ದುಪಡಿ

ಪ್ರತಿವಾದ ಪತ್ರದ 1ನೇ ಪುಟದ 1ನೇ ಖಂಡಿಕೆಯ 7ನೇ ಸಾಲಿನಲ್ಲಿ
ಮರಣ ಹೊಂದಿರುತ್ತಾರೆ ಎಂಬ ಪದದ ನಂತರ ವಿಚಾರ ಸರಿ ಇರುತ್ತದೆ
ಎಂಬ ಪದವನ್ನು ತೆಗೆದು ಹಾಕಿ ಸರಿ ಇರುವುದಿಲ್ಲ ಎಂದು
ಸೇರಿಸಬೇಕಿರುತ್ತದೆ.

2. In the annexed affidavit to the application, the defendant No.2 has sworn that, at the time of filing written statement due to typographical mistake it was mentioned as it is true to say that Shivappa, Shivamma, Gurappa and Mahesha were died and it has to be mentioned as it is not true to say that Shivappa, Shivamma, Gurappa and Mahesha were died. The said mistake is typographical error and not intentional one. The said fact has to be proved by the plaintiff. Hence, the proposed amendment is just and necessary for proper adjudication of the matter. If the application is allowed, no hardship will be caused to the plaintiff. If the application is not allowed, the defendants will be put to great hardship. The defendants have denied the relationship of plaintiff and defendants in their written statement. The genealogical tree furnished by the plaintiff is not correct. There is no relationship between

the plaintiff and the plaintiff schedule properties. Hence, on all these grounds, prayed to allow the application.

3. On the other hand, the plaintiff has resisted this application by filing objection contending that, the application filed by the defendant No.2 is not maintainable either in law or on facts. The defendant No.2 in his written statement admitted the relationship between the plaintiff and defendants. Once the relationship is admitted, it cannot be permitted to withdraw the same subsequently. Hence, admitted facts need not to be proved. Accordingly, the proposed amendment is illegal one and not maintainable in the eye of law. The facts stated in the affidavit are false. Hence, on all these grounds, prayed to dismiss the application.

4. Heard both counsel perused the materials on record.

5. Now the points that would arise for the consideration of this Court that:

- 1.** Whether the application filed by the defendant No.2 U/o VI Rule 17 of Civil Procedure Code deserves to be allowed?
- 2.** What Order?

6. Findings of this Court on the above points are as under:

Point No.1 : **In the Affirmative**
Point No.2 : As per final order
for the following:

REASONS

7. Point No.1: On perusal of the records it depicts that, the plaintiff has filed this suit for relief of partition and separate possession against the defendants in the respect of plaint schedule property. The defendants have appeared in this case and filed written statement by denying the case of the plaintiff. Through the instant application, defendant No.2 has sought for permission to amend his written statement as stated above. In the annexed affidavit, the defendant No.2 has sworn that, due to typographical mistake, it was typed as death of Shivappa, Shivamma, Gurappa and Mahesha as true instead of false. In the entire written statement, the defendants have denied the relationship between the plaintiff and defendants. Hence, prayed to allow the application. On the other hand, the plaintiff has resisted this application contending that, once the defendants have admitted the facts it cannot be permitted to amend the same

and same is not permitted under the law. Hence, prayed to dismiss the application.

8. I have perused the pleadings, evidence, materials available on record, arguments of learned counsel for defendant No.2 and plaintiff. This is suit for partition and separate possession filed by the plaintiff against the defendants in respect of schedule properties. At the time of filing written statement by defendant No.1 to 6, at para No.1, the defendants have admitted the death of Shivappa, Shivamma, Gurappa and Mahesha as true. Through the present application, they want to deny the said facts as false. On perusal of para No.2 of the written statement of defendant No.1 to 6, it depicts that, the defendants have denied the genealogical tree furnished by the plaintiff, as the genealogical tree in respect of plaintiff and defendants' family was wrongly furnished by the plaintiff. Also, the defendants have denied the relationship between the plaintiff and defendants in their written statement. Therefore, on perusal of entire written statement of defendant No.1 to 6, it is clear that, the defendants have denied the relationship between the plaintiff and defendants and genealogical tree furnished by the plaintiff. But, in the paragraph No.1 of the written statement, the defendant No.1 to 6 have admitted the

death of the Shivappa, Shivamma, Gurappa and Mahesha. Now, the defendants want to deny the death of the Shivappa, Shivamma, Gurappa and Mahesha. It is settled principle of law that, once the party admits the fact, he could not withdraw the same. But, in the present case on hand, the defendants have denied the relationship between the plaintiff and defendants in their written statement at para No.2. Accordingly, the defendants have filed this application to deny the death of the Shivappa, Shivamma, Gurappa and Mahesha as they admit the said fact due to typographical error in their written statement. Moreover, since this suit is for partition and separate possession, the burden of proving the relationship between the plaintiff and defendants and schedule properties lies upon the plaintiff. Under such circumstances, by allowing this application, no prejudice will be caused to the plaintiff.

9. As per Order VI Rule 17 of Code of Civil Procedure, at any stage, amendment may be necessary for the purpose of determining the real questions in controversy between the parties and proper adjudication of the matter. Moreover, this suit is for permanent injunction in respect of schedule property. Accordingly, the proposed amendment is just

and necessary for the purpose of proper identification of the matter. Hence, it is a fit case to allow the application. This view is supported by decision reported in **AIR 1971 SC 2636 between Haridas Giridas Vs Vasadaraj Pillai**, Hon'ble Court held that **"However, negligent or careless the first omission may have been and however late the proposed amendment, the amendment should be allowed if it does not cause any injustice to the other side"**. In the present case also by allowing this application no prejudice or injustice will be caused to other side. Because the defendant wants to rectify the typographical error. Hence, aforesaid decision is aptly applicable to the present case on hand. If the application is not allowed it will be caused to multiplicity of proceedings.

10. On perusal of material available on record, it is clear that, by allowing this application no hardship caused to the plaintiff. The proposed amendment is not affect the right of the parties or changed the nature of suit or caused for new cause of action. Under such circumstances, the contention taken by the plaintiff in his objection is not maintainable. Accordingly by allowing this application no prejudice will be caused to the other side and amendment is just

and necessary for proper adjudication of the matter. Of course, the present application is filed after lapse of 2 years and the objections of defendants can be met out by imposing cost. Hence, with these observations this Court has answered **Point No.1 in the Affirmative.**

11. Point No.2: In view of findings made supra, this court proceed to pass the following:

ORDER

The I.A.No.VI filed by the defendant No.2 under Order VI Rule 17 of Civil Procedure Code is hereby allowed on cost of ₹.200/-.

The defendant No.2 is permitted to amend the written statement as mentioned in the application.

[Dictated to the Stenographer, transcribed by her, corrected by me and then pronounced in the open Court on this the **23rd day of APRIL, 2026**]

[DEEPU M.T]
Prl. Civil Judge & JMFC.,
Gundlupete.