

**IN THE COURT OF THE I ADDL CIVIL JUDGE &
JMFC, CHANNAGIRI.**

Dated: 03th Day of June 2025

PRESENT: **SMT. MAHALAKSHMI G M.A. L.L.B.,**

I Addl Civil Judge & JMFC, Channagiri.

OS No.196-2021

BETWEEN :

Jayalakshmi

...Plaintiff

AND

Rudrappa and others

...Defendants

I.A. No.IV

BETWEEN :

Jayalakshmi

...Applicant

AND

Rudrappa and others

.....Defendants

1.	Provision under which the application is filed:	:	U/o 6 rule 17 of CPC
2.	Relief sought for	:	Amendment in plaint
3.	Date on which the application is filed	:	15.08.2023
4.	Number of the application	:	IA.No.IV
5.	Date on which the objections are filed by different opponents:	:	31.10.2023

6.	The date on which the orders is passed:	03.06.2025
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Date: 03.06.2025
Place: Channagiri.

(Smt.Mahalakshmi G)
I Addl Civil Judge And Jmfc.,
Channagiri.

ORDER ON No.IV

When the case is posted for further chief of PW.1 the plaintiff has filed the present application seeking order of the court to carry out amendment in the plaint as mentioned in the application.

2. In support of the application the plaintiff sworn an affidavit stating that, she has filed the present suit seeking the relief of partition and separate possession in the suit schedule properties against the defendants. After instituting the suit she came to know that, the present proposed application schedule property is also their ancestral and joint family properties which was not included in the suit due to non availability of the documents and same is came to her knowledge recently. Thus prays to order of the court to permit her to include the proposed property in the suit schedule. If this application is allowed no hardship will be caused to the other side. On the other hand if this application is not allowed she will be put to great headship and caused injustice to her. Thus, prays to allow the application.

3. The defendant No.2 filed statement of objection stating that, the present application is not maintainable under law. The plaintiff has not made out any reasonable grounds to allow the application. Moreover, the plaintiff has not stated any specific reasons why she had not included the proposed property while

instituting the suit itself. Moreover, there is amicable talks held between the plaintiff and defendants. Accordingly, he has provided financial assistance to the plaintiff while constructing house in the Kadajji Village. The plaintiff has suppressed the said metrial fact before the court. There is already partition effected between the plaintiff and defendants. Accordingly the proposed property is allotted to the share of defendant No.1. Subsequently, the said property is under the defendant No.2. Thus, the present amendment sought by the plaintiff is not maintainability and application liable to be dismissed with cost. Thus, prays to dismiss the application.

4. Based on the rival contention raised by the plaintiff and defendants the following point have been arises for consideration.

POINTS

1. Whether proposed amendment is necessary to determine the lis between the parties?

2. What order?

5. Heard and perused the records.

6. My answers to the above point is as under.

POINTS

Point No.1 : In the Affirmative

Point No.2 : As per the final order

for the following.,

REASONS

7. Point No. 1: Admittedly the plaintiff has filed the present suit seeking the relief of partition and separate

possession in the suit schedule properties against the defendants. When the case is posted for further chief of PW.1, the plaintiff has preferred the present application intending to insert the proposed application schedule property in the plaint schedule as the alleged proposed property is also ancestral and joint family property and same is not mentioned in the plaint while instituting the suit due to non availability of documents.

8. On the other hand the learned counsel for the defendant No.2 seriously objected the application stating that, the proposed amendment is barred by law and the plaintiff has not made out any reasonable grounds to carry out amendment. The defendant No.2 also made financial assistance to the plaintiff while constructing the house in Kadajji Village and there is already existence of partition between the plaintiff and defendants. According, the present proposed application schedule property is allotted to the share of defendant No.1 and there after the proposed property is belongs to the defendant No.2 as per the amicable talks held between the parties. Thus, in order to avoid multiplicity of proceedings as well to determine the lis between the parties effectively proposed amendment is necessary in the present suit. Whether the suit properties are ancestral and joint family property or not? Or whether the plaintiff has her share in the proposed property can not be considered at this stage same requires trail. Moreover, it is burden on the plaintiff to prove her case. However, the defendants have an opportunity to file

additional written statement on the proposed amendment and cross examine the PW.1.

9. The Hon'ble Apex Court and High Court laid down direction in ample number of cases regarding amendment in pleadings to be considered liberally before commencement of trial and it is settled law in possession. Where the amendment is sought before commencement of trial the court is required to very liberal in its approach. It will not change the nature of the suit and the relief sought in the present suit as well it will not effect the cause of action and not gives raise to new cause of action. Hence, I answered the **point No.1 in the Affirmative.**

10. **Point No.2:** In view of discussion and conclusion arrived at point No.1, I proceed to pass the following:

Order

**I A. No.IV filed by the plaintiff
Under Order 6 rule 17 of CPC., is
hereby allowed.**

**The Plaintiff is directed to
carry out amendment and to
produce amended plaint.**

Call On: 16.06.2025

(Dictated to the Stenographer, transcribed and computerized by him, script corrected and then pronounced by me in Open court on this 03rd June 2025)

**Date:.03.06.2025
Place: Channagiri.**

Sd/-
(Smt.Mahalakshmi G)
I Addl Civil Judge And Jmfc.
Channagiri.

