

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

Dated: 14th Day of August 2025

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

I Addl Civil Judge & JMFC, Channagiri.

OS No.390-2022

BETWEEN :

Shekarappa

...Plaintiff

AND

Smt. Gangamma and others

...Defendant

I.A. No.III

BETWEEN :

Shekarappa

...Applicant

AND

Smt. Gangamma 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	:	26.04.2024
4.	Number of the application	:	IA.No.III
5.	Date on which the objections are filed by different opponents:	:	17-01-2025

6.	The date on which the orders is passed:		14.08.2025
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Date: 14.08.2025
Place: Channagiri.

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

ORDER ON No.III

This is an application filed by the plaintiff seeking permission of the court to insert Item No.8 to 11 properties mentioned in the application schedule in plaint schedule. This application filed by the plaintiff when the case is posted for framing of issues.

2. In support of the application the plaintiff sworn an affidavit and stated that, he has filed the present suit against the defendants for the relief of partition and separate possession of his legitimate share in the suit schedule properties by metes and bounds. The plaintiff has not included the proposed item No.8 to 11 properties as the documents were not traced at the time of filing of the suit and the proposed properties are also his ancestral and joint family properties wherein he and the defendants also have shares. Thus, he filed the present application. If this application is not allowed it will effects his claim. If this application is allowed no hardship will be caused to the other side. On the other hand if it is not allowed he will be put great injustice and caused inconvenience. Thus, prays to allow the application.

3. The defendant No.11 and 12 filed objection to the IA No.III wherein they contended that, the application is not maintainable, application is highly belated and without any bonafide. The suit filed by the plaintiff for partition and as such the plaintiffs who filed the present application to include the properties described in the schedule of the I.A not filed the related documents of the said properties to show prima facie that the said properties are ancestral and joint family properties of plaintiff and defendants. The properties included in the I.A as per the description made therein reveals that the alleged properties are situated at Machanayakanahalli Kavalu and it is submitted that no properties of the plaintiff or defendants are situated at Machanayakanahalli Kavalu village. If any properties are going to be included, will oust automatically pecuniary jurisdiction of the Court. Hence prayed to reject the I.A.No.3.

4. The defendant No.1, 15 , 16, 19 and 20 also filed separate objection statement to the I.A stating that the application schedule properties are their self acquired properties. Hence the plaintiff has no any hissa rights over it. Thus prays to reject the application.

5. Despite provided sufficient opportunity both counsels not addressed their arguments.

6. Based on the averments of the affidavit raised by the plaintiff as well statement of objection the following point arises for determination.

POINTS

- 1. Whether the plaintiff made out grounds to allow the IA No.III as prayed for?**
- 2. Whether the proposed amendment is necessary for proper adjudication of the matter?**
- 3. What order?**

7. My Answers to the above points are as follows:-

Point no.1 & 2: In the Affirmative

Point No.3:As for final order

REASONS

8. Point No. 1 & 2 : Admittedly the present suit filed by the plaintiff seeking the relief of partition and separate possession of his legitimate share in the suit schedule properties by metes and bounds. The plaintiff has not included the proposed item No.8 to 11 properties as the documents were not traced at the time of filing of the suit and the proposed properties also his ancestral and joint family properties wherein he and the defendants also have share. Thus, prays to incorporate the alleged proposed amendment in the plaint schedule.

9. Perused the application and the record. Upon perusal of the same this court noticed that at this stage the contention of the plaintiff that the proposed amendment is very much necessary for complete

adjudication of the matter between the parties. The contention raised by the defendants in their objection with respect to the alleged properties is not considered at this stage. Moreover, the burden to prove the suit schedule properties are ancestral and joint family properties is on the plaintiff. The contention of the defendants that the plaintiff has not assigned proper reasons as well not placed any documents with respect to application schedule properties is cannot be consider at this stage. It is burden casted on the plaintiff to prove that the alleged properties are belongs to his ancestral properties and he has hissa right over it. Thus, the present application is deserves to be allowed in order to avoid further litigation and to adjudicate the matter between the parties effectively.

10. 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 trail and it is settled law in position. Where the amendment is sought before commencement of trail the court is required to very liberal in its approach. The court is require to bare in mind the fact that the opposite party which have a chance of meet the case setup in amendment. Equally where the amendment is necessary for the court to effectively adjudicate of the main issues in controversy between the parties. The amendment should be allowed to avoid multiplicity of proceedings. The defendants also have an opportunity to file amended

written statement and cross the witnesses to prove their contention.

11. Accordingly, this court is of the opinion that, the proposed amendment is very much necessary for adjudication of the matter and no injustice will be caused to other side. Accordingly, the **point No.1 and 2** under reference are answered in the **Affirmative**.

12. **Point No.3:** In view of discussion and conclusion arrived at point No.1 and 2, I proceed to pass the following:

ORDER

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

**Consequently, the plaintiff is
permitted to carry out amendment
and to produce amended plaint on
next date of hearing as sought in
the application schedule.**

**For carry out amendment and
to produce amended plaint.**

Call On 22.08.2025

(Dictated to the Stenographer, transcribed and computerized by him, script corrected and then pronounced by me in Open court on this 14th August 2025)

**Date: 14.08.2025
Place: Channagiri.**

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

