

KADG320037682022



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

**Presided Over by SMT. JYOTI ASHOK PATTAR**  
(B.E., LL.B.)

**O.S. No.219/2022**

Dated this the 28<sup>th</sup> day of March, 2026

Smt. S.M. Savithamma and others.

**PLAINTIFFS**

**Vs.**

Smt. Neelamma and others.

**DEFENDANTS**

**PARTIES TO I.A.NO.IV**

Smt. S.M. Savithamma and others.

**APPLICANTS/  
PLAINTIFFS**

**Vs.**

Smt. Neelamma and others.

**OPPONENTS/  
DEFENDANTS**

i	Provision under which the application is filed	U/o VI Rule XVII of CPC.
ii	Relief sought for	Permission to amend the plaint.
iii	The date on which the application is filed	01.07.2025
iv	Number of the application	IA No.IV
v	The date on which the objections are filed by the defendants opponents	03.07.2025
vi	The date on which the orders were passed on the said application.	28.03.2026

### **ORDER ON I.A.No.IV**

The plaintiffs have filed an application U/o VI Rule XVII of CPC at the stage of plaintiff evidence seeking permission to amend the Original suit.

**2.** It is stated in the accompanying affidavit that, the suit schedule property is their ancestral property and they have definite share in it. The defendant No.1 has no individual right to make the alleged gift deed dated: 14.02.2019 in favour of 3<sup>rd</sup> defendant. That at the time of filing of the suit by oversight not mentioned the averment stated in the annexed application and the said proposed amendment will not change the nature of the suit. That proposed

amendment is vital for adjudication of the suit as said S.B. Manjunatha is the attesting witness to the alleged fabricated gift deed. Therefore, if the application is allowed no hardship will be caused to the other side. On the other hand, if the same is not allowed we would be great hardship and cause injustice. Hence, prays to allow the application.

**3.** On the other hand, the defendant No.1 filed objection, wherein the defendant No.1 denied the averments made in the application and affidavit. The defendant No.1 specifically contended that, the defendant No.1 was aged more than 84 years. The plaintiffs are intentionally not adducing their evidence and filed application just to drag the proceedings. The plaintiff is well aware that the suit schedule property is the absolute property of defendant No.1 by virtue of the Regd. Sale deed dated: 18.06.1974. The plaintiffs have not to entered into the witness box till today and simply filing applications one after the another. The plaintiffs without leading their evidence has came up with the present application to protract the proceedings. Hence, prays to reject the application.

**4.** Heard Ld. Counsel for petitioner. The Ld. Counsel for defendant No.1 filed written argument. Perused the materials on record.

5. The following points arise for the Court determination.

1. Whether the amendment sought by the applicant is necessary to determine the real dispute between the parties?
2. What order?

6. The Court findings on the above point are as under:

Point No.1: In the Affirmative

Point No.2: As per final order,  
for the following;

### **REASONS**

7. Point No.1 : That the suit is one for declaration and permanent injunction and the plaintiff is seeking to amend the plaint by way of inserting the following schedule, which is as under;

### **SCHEDULE**

After para No.6 of the plaint, to be add para No.6(a):

6 (a) It is most respectfully submitted that the Defendant No.2, in collusion with his brother Sri. S.B. Manjunatha, has created an alleged gift deed in the name of the defendant No.3 with regard to suit schedule property. Further, also submit that the said Manjunath is the none other than father of the plaintiffs and he has malafide intention and joined the hands with the defendants in manufacturing the alleged gift deed as he has no male children.

**8.** That the amendment sought by the plaintiffs does not change the nature of the suit and the parties have not yet lead their evidence. The contention taken by the defendants are matter of trial. That the suit is one for the declaration and permanent injunction, the amendment sought neither changes the nature of the suit nor the cause of action. Therefore, in order to avoid the multiplicity of proceedings, it is just and proper to permit the plaintiff to amend the plaint as sought for to adjudicate the matter on merits. Hence, point No.1 is answered in the Affirmative.

**9.** Point No.2 : In view of above discussion, this Court, proceed to pass the following:

**ORDER**

I.A.No.IV filed by the plaintiffs  
U/o 6 rule 17 R/w Sec. 151 of CPC  
is hereby allowed on cost of  
Rs.500/-.

The plaintiffs are permitted to  
carry out of amendment as per the  
proposed amendment as sought  
for in the application.

(Dictated to the Stenographer directly on computer, typed by her, revised and corrected by me and then pronounced in the open Court on this the 28<sup>th</sup> day of March - 2026).

**(Jyoti Ashok Pattar)**  
**Prl. Civil Judge & JMFC.,**  
**Harihar.**