

IN THE COURT OF THE I ADDITIONAL SENIOR**CIVIL JUDGE, PUTTUR, D.K.,****DATED THIS THE 1st DAY OF JUNE 2026****:PRESENT:****Sri.Devaraj.Y.H., B.A.L., L.L.B.,
1st ADDL. SR. CIVIL JUDGE & JMFC.,
PUTTUR.****O.S.No. 18/2014**

Plaintiffs	:	Smt. Shobha and others
		Vs.
Defendant	:	Ananda Nayak dead by his LRs' and Others

IA no.III/2026

Applicant	:	Smt. Shobha and others
		Vs.
Opponents	:	Ananda Nayak dead by his LRs' and Others

**ORDERS PASSED ON IA NO.3 FILED BY THE PLAINTIFF
UNDER ORDER VI RULE 17 AND SEC. 151 OF CPC**

This IA has been filed by the counsel for the plaintiffs and prays to permit them to amend the plaint by inserting the proposed amendment as mentioned in the IA in the interest of justice and equity.

2. In support of the IA, plaintiff no.2 filed affidavit and stated that plaintiffs have filed the above suit for partition of Plaint 'A' schedule property into 7 equal shares and allot three such shares to the plaintiffs jointly. Stated further that the property described as 'A' schedule property is ancestral leasehold land which was being cultivated by their grandfather namely Appanna Nayak as ancestral leasehold property. Stated further that since said Appanna Nayak died prior to advent of Karnataka Land Reforms Act, his wife namely Padmavathi along with our father/defendant No.1 being senior most member of Joint family filed Form-7 declaration seeking occupancy right of said leasehold land and Land Tribunal Puttur after holding enquiry was pleased to grant Occupancy Right in their names and occupancy Patta in Form-10 is also issued in their joint names.

3. It is stated that after death of aforesaid Padmavathi her two sons namely 1 defendant/ Ananda Nayak and Balakrishna Nayak got partitioned the 'A' Schedule property

into two shares on 08.12.1986 by entering into registered sale deed. Stated that to the aforesaid partition deed their father 1st defendant has represented his branch as Kartha/Yejman consisting of himself and children i.e., plaintiffs and defendants No.1 to 4.

4. It is stated that plaint 'A' schedule property is joint family property and as such all the members of it i.e., plaintiffs and defendant No.2 to 4 have equal undivided right /7th right each. Stated that the present suit numbered as O.S No.18/2014 was once decreed as per judgment dated 05.08.2014 on the file of Hon'ble Additional Senior Civil Judge At Puttur.D.K and the Hon'ble Court was pleased to decree the suit by holding that plaintiffs are entitled for 1/7th share each in the suit schedule properties. Stated further that plaintiffs herein had also filed Final decree petition which was numbered as FDP No.07/2014 and during pendency of aforesaid Final Decree Petition Defendant No.2 and 3 herein had filed Misc.case No.01/2015 to set aside the ex-parte

judgement and preliminary decree passed in O.S No. 18/2014. It is stated that this Hon'ble Court vide order dated 28th day of February, 2025 was pleased allow the Misc case.

5. Further stated that during pendency of FDP No.07/2014 taking miserable condition of father Ananda Nayak/defendant No.1 the 2nd defendant and his wife exercised undue influence and by deceiving him had fraudulently got executed registered sale deed dated 05.05.2016, registered as document No.PUT-1-00759/2016-17 of SRO Puttur in respect of item No.4 of Plaint Schedule property bearing Sy.No.115/(P1) measuring 0.56 acres in favour of defendant No.5 herein.

6. Stated that the aforesaid sale deed is hit by principles of Lis-Pendence since it was illegally made when the FDP No.17/2014 has been pending. Further stated that vendee's husband was 2nd respondent in FDP No.17/2014 and hence vendee was fully aware of the same.

7. Stated further that challenging the aforesaid registered sale deed i.e., Registered Sale Deed which is obtained fraudulently a Suit has been filed by defendant No 4 herein before this Hon'ble Court which is numbered as O.S No.22/2024 seeking relief of cancellation of sale deed and permanent prohibitory injunction.

8. It is stated that as stated above the plaint 'A' schedule properties is a joint family property as described above and hence plaintiffs and defendants No.2 to 4 have 1/7th right each. The sale deed executed by father Ananda Nayak/ defendant No.1 herein in favour of defendant No.5 is obtained fraudulently and as such suit O.S No.22/2024 is pending for adjudication before this Hon'ble Court in respect of the aforesaid sale deed.

9. It is stated that the proposed amendment is very much necessary because the Plaint 'A' schedule property is free from all sale deed. The aforesaid sale deed took place after the registration of said suit and it's a subsequent event. Stated

that the pleading to effect that Plaint 'A' schedule property is free from all sale deeds is very much necessary to prove the contention of the plaintiffs.

10. It is stated that no harm or prejudice will be caused to the defendants if the application is allowed in the other hand if the application is rejected great hardship and injustice will be caused to the plaintiffs. By contending all these grounds Counsel for the plaintiffs prays to allow the IA and grant the relief as prayed for.

11. Defendant No.2 filed the objections and contended that the application is not maintainable either in law or on facts and is liable to be dismissed in limine as the same is filed with an ulterior motive to delay the proceedings and to alter the nature of the original suit.

12. Stated that the deponent in the affidavit accompanying the application has made vague, incorrect and false assertions and the same are denied as false.

13. It is stated that the suit is of the year 2014 and the plaintiffs are seeking amendment after an inordinate and unexplained delay of nearly 10 years. The proviso to Order VI Rule 17 CPC clearly mandates that once the trial has commenced, no amendment shall be allowed unless the party satisfies the Court that despite due diligence the matter could not have been raised earlier. The plaintiffs have utterly failed to establish any "due diligence".

14. It is stated that the alleged sale deed is dated 05.05.2016. The plaintiffs were fully aware of the said transaction from the very beginning. Despite such knowledge, they have deliberately chosen not to challenge the same for several years. The present application is therefore nothing but an afterthought and liable to be rejected on the ground of laches and acquiescence.

15. It is stated that the proposed amendment seeks to introduce a completely new and inconsistent cause of action, namely allegations of fraud, undue influence, and a

declaration that the sale deed is not binding. The original suit is one for partition, whereas the amendment attempts to convert the suit into one for declaration and cancellation of a registered sale deed, which is impermissible in law.

16. It is stated that it is the settled principle that a registered sale deed cannot be ignored and must be specifically challenged by way of an appropriately valued suit seeking cancellation under the provisions of the Specific Relief Act along with payment of proper court fee. The plaintiffs are attempting to circumvent the statutory requirement of court fee by introducing the challenge through an amendment.

17. It is stated that the plaintiffs themselves have admitted in the affidavit that O.S. No.22/2024 is already pending before this Hon'ble Court seeking cancellation of the very same sale deed. When a substantive suit is already filed, the present amendment is wholly redundant, unnecessary, and amounts to parallel litigation, which is not permissible. The contention that the sale deed is hit by the doctrine of lis

pendens is a matter of evidence and legal consequence. Even assuming without admitting that the doctrine applies, the transferee would merely step into the shoes of the transferor. Therefore, no amendment is required for adjudication of the partition suit.

18. It is stated that the proposed amendment will cause serious prejudice to the defendants, particularly the purchaser, as it seeks to reopen settled transactions and compel the defendants to meet entirely new allegations after a long lapse of time.

19. It is stated that the allegations of fraud, undue influence, and deception are bald, vague, and unsupported by material particulars as required under Order VI Rule 4 CPC. Such vague pleadings cannot be permitted through an amendment.

20. It is stated that the Hon'ble Supreme Court has consistently held that amendments which change the nature

and character of the suit, introduce a time-barred claim, or are sought without due diligence must be rejected.

21. Stated that the application is filed only to protract the proceedings and harass the defendants and hence deserves dismissal with costs.

22. Defendant No.5 filed the objections and contended that the application filed by the plaintiffs is false, frivolous, Vexatious and not maintainable at law or on the fact of the case.

23. It is stated that the proposed amendment is an after thought by the plaintiff. It is stated that the amendment application is filed after the 5th defendant/Respondent got impeded in the above suit. It is stated that the facts stated in the application & affidavit are all false and made with an inattention to create cause of action.

24. It is stated that the late Ananda Nayak sold the property to 5 Defendant/ Respondent for consideration. Hence sale deed is legal and executed under due process of Law.

Further the property bearing Sy no 115/P1 in extent 0.56 Acres was the self acquired property of Late Ananda Nayak and hence he could dispose it of on his own. It was not a family property.

25. It is stated that the 1^a Defendant has sold some of the properties while he was alive and the transaction was within knowledge of the plaintiffs. It is stated that plaintiffs have signed the said sale deeds as consent witness and hence the plaintiffs are precluded from challenging the sale transaction of this defendant. It is stated that if the plaintiffs want to challenge the alienation, then they have to challenge all the alienation made in the past and it cannot be restricted to the transaction of this defendant, hence the amendment is deliberately aimed at the defendant No 5 to disturb the legally acquired property. By contending all these grounds counsel for the defendant No.5 prays to dismiss the IA with cost.

26. Heard on IA. Perused the IA, objections and rest of the material particulars available on record. Below mentioned points arisen for my consideration.

POINTS

1. Whether the amendment sought by the plaintiffs to their pleadings is required for proper and effective adjudication of this case?
2. Whether the plaintiffs made out grounds to consider the IA and grant the relief as prayed for ?
3. What order?

27. Heard counsel for plaintiffs and defendants on IA no.3. Perused the material particulars available on record. My findings to the above points is as hereunder.,

Point No.1& 2 : In the Affirmative.

Point No.3: As per final order for the following:

REASONS

28. Point No.1: The present IA came to be filed by the plaintiffs seeking for to amend the plaint by inserting the proposed amendment as mentioned in the IA. It has

been contended by the counsel for the plaintiffs that the present suit has been filed for the relief of partition and separate possession with respect of the plaint 'A' schedule properties. It has been argued by the Counsel for the plaintiffs that earlier the present suit was came to be decreed on 05-08-2014 declaring that plaintiffs are entitled for 1/7th share each in the plaint schedule properties. It is argued that after passing of preliminary decree, plaintiffs have also filed petition seeking to draw final decree in FDP No.7/2014. It is argued that during the pendency of the said final decree proceedings, defendant nos. 2 and 3 filed Misc. Case no.1/2015 with a prayer to setaside the Ex-parte Judgment and decree passed in OS no.18/2014 and as per the order passed by this court on 28-02-2025, the said Misc. case No. 1/2015 came to be allowed and the present suit filed had been restored to decide on merit. It is argued that during the pendency of FDP no.7/2020, defendant no.1 sold item no.4 of plaint schedule property bearing

Survey no.115/P1 measuring to an extent of 0.56 acres in favour of defendant no.5 on deceiving defendant no.1, defendant no.2 and his wife exercised undue influence and had fraudulently got executed registered sale deed on 05.05.2016 and the said sale deed is hit by the principles of lis-pendence since the said sale transactions was came into existence illegally during the proceedings of FDP no.17/2014. It has been argued that defendant no.4 filed a suit before this court in OS no.22/2014 by challenging the said fraudulent sale transaction executed by defendant no.1 in favour of defendant no.5 and sought for the relief of cancellation of the said sale deed as well sought for consequential relief of permanent prohibitory injunction. It is argued that plaintiffs are having specific share in item no.4 of plaint A schedule properties including other properties also and now the sale transaction had been taken place with respect of item no.4 of plaint A schedule property.

29. It is argued that the proposed amendment is required for the proper adjudication of the right of the parties with respect of the plaint A schedule properties. Further stated that if the permission accorded to the plaintiffs to amend plaint, it is not going to cause any loss and injustice to the defendants. Further argued that if the application is not allowed and permission not accorded to the plaintiffs to amend the plaint pleadings, it is going to cause irreparable loss and injury to the plaintiffs which can not be com thorough any means. With all these grounds counsel for the plaintiffs prays to allow the IA.

30. Counsel for the defendant no.3 submits no objections to allow the IA no.3. counsel for the defendant no.2 and counsel for the defendant no.5 filed separate objections and contended that the application filed seeking for amendment is not required for proper adjudication of the case. It is argued that the application is filed without any valid reasons & filed at the belated stage. Further argued that

the sale transaction was taken place on 05-05-2015 and the information with regarding to the said sale transaction was well within the knowledge of the plaintiffs in the year 2015 itself, inspite of that plaintiffs not to challenge said sale transaction for several years and by causing amendment to the plaint, plaintiffs intending to convert the suit into for declaration and cancellation of a registered sale deed which is impermissible in law.

31. It has been argued that during his lifetime of defendant No.1 has sold some of the properties and the said transactions are well within the knowledge of the plaintiffs and even plaintiffs have signed the said sale deeds as consenting witnesses, hence the plaintiffs are precluded from challenging the sale transaction of the defendant No.5. It is argued that the amendment is deliberately aimed at the defendant No.5 to disturb the legally acquired property. It is argued that the application filed by the plaintiffs is devoid of merits and prays to dismiss the application with cost.

32. Heard counsels for the plaintiffs, defendant No.1 and defendant No.5. Perused the IA, Objections and rest of the material particulars available on record.

33. A perusal of the records, it clarifies that this suit was earlier came to be decreed on 05.08.2014. Defendant No.2 and 3 filed Miscellaneous petition in No.1/2015 under Order 9 Rule 13 R/w Section 151 of CPC and sought for the relief to set aside the Ex-Parte Judgment and Decree passed in this suit. The said Misc. Petition No.1/2015 came to be allowed on 28.02.2025 and the Ex-Parte Judgment and Decree passed in this suit dated 05.08.2014 was came to be set-aside and the present suit came to be restored for its original stage.

34. After restoring of the suit, parties have put their appearance through their advocates. Defendant No.5 filed IA No.2 under Order 1 Rule 10(2) R/w Section 151 of CPC which came to be allowed on 20.11.2025 and she was impleaded as party to this suit. Defendant No,5 filed the written statement on 19.12.2025 and taken a specific stand that plaint 'A'

schedule properties are the self acquired properties belonged to the deceased defendant No.1 and during the lifetime of deceased defendant No.1, on 05.05.2016 he sold the land measuring to an extent of 56 cents in RS No.115/3 of Kodimbadi Village, Puttur Taluk for a valid sale consideration in favour of defendant No.5. Issues have been framed. When the matter posted for recording of evidence of the plaintiffs present IA came to be filed by the plaintiffs and sought for the permission to amend the plaint by inserting the proposed amendment as sought in the IA.

35. Through this application plaintiffs intended to insert the proposed amendment which contained the detail with regarding to the sale transaction dated 05.05.2016 allegedly executed by the deceased defendant No.1 in favour of defendant No.5 with respect of the item No.4 of the plaint 'A' schedule property and stated that deceased defendant No.1 had no absolute right to sell the said property in favour of the defendant No.5.

36. A perusal of the material particulars available on record, it clarifies that the sale transaction dated 05.05.2016 was taken place after the disposal of OS No.18.2014 and during the pendency of Miscellaneous petition No.1/2015. Admittedly defendant No.5 was impleaded in this suit and after filing of the written statement the present IA has been filed by the plaintiffs seeking for amendment of the plaint pleadings which contained the information regarding the sale transaction dated 05.05.2016. Since the plaintiffs claiming their right and share in the property which sold in favour of the defendant No.5, this Court opines that the proposed amendment is required for the just adjudication of the right of the parties with respect of the property which allegedly sold in favour of the defendant No.5 and in order to avoid multiplicity of the proceedings between the parties to this suit.

37. If the proposed amendment is permitted to be caused in the plaint, it is not going to cause any hardship or prejudice the rights of the defendants, since they have got right to resist

the amended plaint pleadings by filing the additional written statement. Plaintiffs made out grounds to consider the IA and grant the relief as prayed for.

38. I have gone thorough with the decision relied by the Counsel for the Defendant No.2 and 3 i.e., 2009 (10) SCC 84 in between M/S. Revajeetu Builders & Developers vs M/S. Narayanaswamy & Sons & Ors. The ratio laid down by the Hon'ble Apex Court in the said decision is not support the arguments addressed by the Counsel for the Defendant No.2 & 3, hence the same is not helpful to the case putforth by the Defendant No.2 & 3.

39. With all these discussion I proceed to answer Point No.1 and 2 in the affirmative.

40. Point No.3: As discussed above in point No.1 and 2, I proceed to pass the following.,

ORDER

IA No. 3 filed by the plaintiffs under Order VI Rule 17 read with Section 151 of CPC is hereby allowed.

Plaintiffs permitted to amend the
plaint pleadings by inserting the
proposed amendment as mentioned in
the IA.

(Dictated to the Stenographer directly on the computer, typed by her,
print out taken by her, corrected, signed and then the Order pronounced
in the open court this the 1st Day of June 2026)

(Devaraj Y.H.)
I ADDL. SR. CIVIL JUDGE & JMFC
PUTTUR