

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE AND
CJM, DHARWAD**

PRESENT

**Sri. Venkanna B. Hosamani,
B.Com., LL.B.,(Spl.)
Prl. Senior Civil Judge and
CJM., Dharwad.**

O.S. No.249/2023

Dated this 23rd day of June, 2026

PLAINTIFF/S : Sri. Parappa S/o. Channappa Gamannavar.

-Vs-

DEFENDANT/S : 1. Sri. Mallappa S/o. Rajappa Devappanavar
and others.

Parties to I.A. No.7

Applicant : Sri. Parappa S/o. Channappa Gamannavar
(Ori.Pltf.)

(By Sri S.V. Patil., Adv.,)

-Vs-

Opponent : 1. Sri. Mallappa S/o. Rajappa Devappanavar
(Ori.Def.) and others

(By Sri. P.F. Guttal, Adv.,)

ORDER ON I.A. Nos.7 FILED U/O 6 RULE 17 OF CPC

The applicant/ plaintiff has filed I.A No.7 U/o 6 Rule 17 of CPC seeking permission to amend the plaint in the interest of justice and equity.

2. In the annexed affidavit, the applicant / plaintiff has stated that he has filed the suit against the defendants for specific performance of contract. Further, he has contended that behind the back of the plaintiff by playing fraud on the plaintiff, the defendant No.1 has changed the Survey number from 573/2 to 573/1 and has sub divided the land into two parts and executed one agreement of sale bearing No.DWR-1-00966-2023-24 with respect to sub divided land bearing Sy. No. 573/1 in favour of defendant No.2 and executed another sale deed bearing No. DWR-1-01054-2023-24 with respect to sub divided land bearing Sy. No. 573/2 in favour of defendant No.3. He has mentioned the Sy. No. 573/2 through oversight and he has not realized earlier and hence he was unable to secure the concerned documents. Hence, he has filed the application. He

has further contended that, if the application is not allowed, he will be put to irreparable loss and hardship rather than the defendants and it helps the Court to decide the case on merits and prayed to allow the application.

3. The counsel for the defendants No.2 and 3 has filed written objections and opposed the said application and contended that, the interim application filed by the plaintiff is without any base and the proposed amendment is not having any proof or document, hence, it is liable to be dismissed. The present amendment is changes the nature of the suit. Without the declaratory relief in the suit, the application is not maintainable. That, at the time of filing of the written statement, the defendants No.2 and 3 are clearly stated that the suit property is different and the property purchased by the defendants No.2 and 3 is different. After filing of the written statement, this Hon'ble Court has framed the issues regarding the survey numbers also and after framing the issues the plaintiff has adduced the evidence and marked the documents.

Hence, the application is liable to be dismissed and prayed for rejection of the application.

4. Heard the arguments on both the sides and examined the materials placed on record.

5. The following points have arisen for consideration,

1. Whether the plaintiff has made out sufficient grounds to allow his application?

2. What order?

6. The points have been answered as under;

Point No.1 : In the Affirmative

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

: REASONS :

7. **Point No. 1:** Admittedly, the present suit has been filed by the plaintiff against the defendants and requested for order of specific performance of contract and direct the defendant No.1 to execute the registered sale deed by receiving balance sale consideration amount and also prayed for declare the sale deeds

No. DWR-1-00966-2023-24 and DWR-1-01054-2023-24 registered before the Sub Registrar, Dharwad in favour of defendants No.2 and 3 are illegal. Admittedly, the defendants in their written statement specifically stated that the property in agreement of sale as stated by the plaintiff and property purchased by the defendants are not one and the same. This Court has also framed the issues No.4 and 5 that property number is 573/1. The plaintiff in his plaint averments has stated that the suit property is land bearing Sy. No. 573/2 measuring 6 acres 4 guntas. On 09/06/2026 the plaintiff has filed memo along with three mutation entries and stated that these documents are created behind the back of the plaintiffs. Hence, the plaintiff requested for allow his application for amendment.

8. Admittedly, the plaintiff has to prove his case independently. If really, the Sy. No. 573/1 and 573/2 are not one and the same, the defendants have got an opportunity to cross-examine the plaintiff to that effect.

9. I am of the opinion that all amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the said order. In my opinion, the amendment is required for the effective and proper adjudication of the controversy between the parties, it required to avoid multiplicity of proceedings. Hence, I am of the opinion that, if the application is not allowed definitely there will be multiplicity of proceedings and both the parties may loose their valuable time and money to get the justice. Accordingly, I am of the opinion that it is just and necessary to allow the application. Accordingly, I answered point No.1 in **Affirmative**.

10. **Point No.2:** That for the reasons discussed supra, the following :

: O R D E R :

The I.A. No.7 filed U/o 6 Rule 17 of CPC by the plaintiff is hereby allowed.

The plaintiff is permitted to amend the plaint
and furnish the amended plaint on or before
07/07/2026.

*(Dictated to the Stenographer, transcribed and computerized by him,
script corrected and then pronounced by me in the Open Court on this
the 23rd day of June, 2026)*

(Venkanna B. Hosamani)
Prl. Senior Civil Judge & CJM.,
Dharwad.