

IN THE COURT OF THE I ADDITIONAL SENIOR  
CIVIL JUDGE & J.M.F.C., HUBBALLI

*Present:*

SMT. SARVAMANGALA K.M.,  
B.A. LL.B.,  
I Additional Senior Civil Judge and JMFC.,  
Hubballi.

**O.S. No.147/2024**

Dated this the 21<sup>st</sup> day of April, 2026

*Plaintiff* : Smt. Gangavva W/o Gadigeppa  
Akki.

.Vs.

*Defendant* : Smt. Iramma W/o Danappa Naykar  
and others.

**PARTIES TO I.A. NO.XII**

Applicant/s : Smt. Gangavva W/o Gadigeppa  
Akki.

.Vs.

Opponent/s : Smt. Iramma W/o Danappa Naykar  
and others.

- i. *Provision under which* : Under Order 6 Rule 17 R/w  
*application is filed* Sec.151 of CPC.

- ii. Relief sought for : For amendment of plaint.
- iii. The date on which application is filed : 12.03.2026
- iv. Number of the application : XII
- v. The date on which objections are filed by different opponents : 02.04.2026 (by D.4 & 28)
- vi. The date on which orders were passed on the said application : 21.04.2026

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### **ORDERS ON IA No.XII**

*This order arises out of interlocutory application No.XII filed by the applicant/plaintiff under Order VI Rule 17 R/w Sec.151 of Civil Procedure Code for amendment of plaint.*

### **Proposed amendment sought to be introduced to the plaint:**

1. ವಾದ ಪತ್ರದ ಪ್ಯಾರಾ ನಂ.8ರ ಕೊನೆಯಲ್ಲಿ ಹೊಂದಿರುವುದಿಲ್ಲಾ ಅನ್ನುವುದರ ಮುಂದೆ ಈ ಕೆಳಗಿನಂತೆ ಇರುತ್ತದೆ:-

ದಾವಾ ಆಸ್ತಿಗಳ ಶೆಡ್ಯೂಲ್ "ಬ" ಆಸ್ತಿಗಳ ಪೈಕಿ ಸರ್ವೆ/ ಬ್ಯಾಕ್ ನಂ.108 ಕ್ಷೇತ್ರ 2 ಎಕರೆ 17 ಗುಂಟೆ ಮತ್ತು ಸರ್ವೆ/ ಬ್ಯಾಕ್ ನಂ.196/4 ಕ್ಷೇತ್ರ 04 ಎಕರೆ 00 ಗುಂಟೆ ಜಮೀನುಗಳನ್ನು ದಾವೆಯೂ ಚಾಲ್ತಿಯಲ್ಲಿರುವಾಗ ವಾದಿಗೆ ಹಾನಿ ವ ಲುಕ್ಸಾನ್ ಮಾಡಬೇಕು ಮತ್ತು ವಾದಿಯ ಹಿಸ್ಸೆಯನ್ನು ಎತ್ತಿ ಹಾಕಬೇಕು ಎಂಬ ದುರುದ್ದೇಶದಿಂದ ಪ್ರತಿವಾದಿ ನಂ. 28 ನೇದವನು,

ಪ್ರತಿವಾದಿ ನಂ. 4 ನೇದವನಾದ ಖಾಸಾ ಮಗನ ಹೆಸರಿಗೆ ದಿ: 21-02-2026 ರಂದು ಭಕ್ಷೀಸ್ ಪತ್ರವನ್ನು ನೋಂದಾಯಿಸಿಕೊಟ್ಟಿದ್ದು ಸದರ ಭಕ್ಷೀಸ್ ಪತ್ರವು ಶೂನ್ಯವಾಗಿದ್ದು ಸದರ ಭಕ್ಷೀಸದ ಪತ್ರವು ವಾದಿಯ ಹಿಪ್ಪೆಯ ಮೇಲಾಗಲಿ ವ ವಾದಿಯ ಮೇಲಾಗಲಿ ಬಂಧನಕಾರಿಯಾಗುವುದಿಲ್ಲಾ. ಅಂತಾ ಸೇರ್ಪಡೆ ಮಾಡಲು ನ್ಯಾಯದಾನದ ದೃಷ್ಟಿಯಿಂದ ಅನುಮತಿ ನೀಡಲು ಪ್ರಾರ್ಥನೆ ಇದೆ.

2. ವಾದಪತ್ರದ ಪ್ಯಾರಾ ನಂ.12 ರ ನ್ಯಾಯಾಲಯದ ಶುಲ್ಕದಲ್ಲಿ 9 ನೇ ಸಾಲಿನ ಮದ್ಯ ಭಾಗದಲ್ಲಿ ಹಕ್ಕು ಬಿಟ್ಟು ಪತ್ರವು ಅನ್ನುವುದರ ಮುಂದೆ ಮತ್ತು ಭಕ್ಷೀಸ್ ಪತ್ರ ಅಂತಾ ಸೇರ್ಪಡೆ ಮಾಡಲು ನ್ಯಾಯದಾನದ ದೃಷ್ಟಿಯಿಂದ ಅನುಮತಿ ನೀಡಲು ಪ್ರಾರ್ಥನೆ ಇದೆ.
3. ವಾದಪತ್ರದ ಪ್ಯಾರಾ ನಂ.13 ರ ಪ್ಯಾರಾದಲ್ಲಿ ಉಪ ಪ್ಯಾರಾ [ಡ] ನಂತರ ಹೊಸ ಉಪ ಪ್ಯಾರಾ [ಡಡ] ಈ ಕೆಳಗಿನಂತೆ ಸೇರ್ಪಡೆ ಮಾಡಬೇಕು:-  
[ಡಡ] ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ದಾವಾ ಆಸ್ತಿಗಳ ಪೈಕಿ ಶೇಡ್ಯೂಲ್ "ಬ" ಆಸ್ತಿಗಳಾದ ಸರ್ವೆ/ ಬ್ಲಾಕ್ ನಂ. 108 ಕ್ಷೇತ್ರ : 2 ಎಕರೆ 17 ಗುಂಟೆ ಮತ್ತು ಸರ್ವೆ/ಬ್ಲಾಕ್ ನಂ. 196/4 ಕ್ಷೇತ್ರ 04 ಎಕರೆ 00 ಗುಂಟೆ ಜಮೀನುಗಳನ್ನು ಪ್ರತಿವಾದಿ ನಂ. 28 ನೇದವನು, ಪ್ರತಿವಾದಿ ನಂ. 4 ನೇದವನಿಗೆ ದಿ: 21.02.2026 ರಂದು ಮಾಡಿಕೊಟ್ಟ ಭಕ್ಷೀಸ್ ಪತ್ರವು ಶೂನ್ಯವಿರುತ್ತದೆ ಅಂತಾ ಘೋಷಣೆ ಮಾಡಿ ಅದು ವಾದಿಯ ಮೇಲೆ ಬಂಧನಕಾರಿಯಾಗುವುದಿಲ್ಲಾ ಅಂತಾ ಠರಾಯಿಸಲು ಪ್ರಾರ್ಥನೆ ಇದೆ. ಅಂತಾ ಹೊಸ ಉಪ ಪ್ಯಾರಾ ಸೇರ್ಪಡೆ ಮಾಡಲು ಅನುಮತಿ ನೀಡಬೇಕಂತಾ ಪ್ರಾರ್ಥನೆ ಅದೆ.
4. ವಾದಪತ್ರದ ಶೇಡ್ಯೂಲ್ "ಬ" ದಲ್ಲಿ ದಾವಾ ಆಸ್ತಿಗಳ ಅ.ನ. ಕ್ರ ನಂ. 2 ರ ನಂತರ ಇರುವ 2] ಅನ್ನುವುದನ್ನು ಕಡಿಮೆ ಮಾಡಿ 3] ಅಂತಾ ಸೇರ್ಪಡೆ ಮಾಡಲು ನ್ಯಾಯದಾನದ ದೃಷ್ಟಿಯಿಂದ ಅನುಮತಿ ನೀಡಲು ಪ್ರಾರ್ಥನೆ ಇದೆ.

2. The brief facts of the affidavit annexed to application is that, out of the properties in Schedule

*'B' of the suit properties, 2 properties were known to the defendants No.4 and 28, who had the intention to damage the plaintiff's share. The defendants No.28 had registered a Gift Deed on 21.02.2026 in the name of defendant No.4. It is very necessary to explain and make a claim in the suit regarding the said Gift Deed. Besides, while computing the Sl.No. of Schedule 'B' properties, the entry was made as 2] instead of 3). It is very necessary to correct the same by adding and amending the entry. The said error in the plaint is neither intentional nor deliberate, but has occurred purely due to a typographical mistake while drafting the original plaint. The proposed amendment does not in any manner alter the nature of the suit or the fundamental structure of the case. The said amendment is sought purely in the interest of justice and equity, and no prejudice will be caused to the defendants if the same is allowed. Hence, prayed to allow the application.*

*3. The defendant No.4 and 28 have resisted the application by contending that the contents of the application as well as the sworn affidavit are false, frivolous and vexatious. The I.A. is not tenable in the eyes of law. The defendant No.28 is the*

*absolute owner of the properties described in the Gift Deed executed by the defendant No.28 in favour of the defendant No.4 on 20.02.2026 registered on 21.02.2026. Hence, the defendant No.28 has every right to execute document in favour of the defendant No.4. The plaintiff has no right to agitate any objections or to amend the plaint in this case. The defendant No.28 is senior citizen about 94 years of age and the defendant No.28 has last wish the properties which are standing in his name be transferred to the defendant No.4 by way of registered Gift Deed, by virtue of registered gift deed and the defendant No.4 become absolute owner and in physical possession over the said properties described in the Gift Deed. The plaintiff is estopped to say that the Gift Deed executing by the defendant No.28 in favour of the defendant No.4 is not binding on the share of the plaintiff as the plaintiff executed relinquishment deed in favour of the plaintiff and his deceased brother. Hence, prayed to dismiss the application.*

*4. I have heard the arguments canvassed by learned counsel for the parties.*

*5. The following points are for my consideration.*

- *Point No.1: Whether the plaintiff has made out sufficient grounds to allow the application?*
- *Point No.2: What order?*

6. *My findings to the above points are as under.*

- *Point No.1: In the Affirmative.*
- *Point No.2: As per final order, for the following;*

### **REASONS**

7. **Point No.1:** *This is the suit of the plaintiff for the relief of partition and separate possession and declaration of plaintiff's share in the suit schedule properties against the defendants. When the matter is set down for objections to I.A. No.9 and 10, she came up with the present application seeking the proposed amendment by adding the above said contents in their plaint. Admittedly, the trial of the parties has not yet commenced. In such circumstances, before commencing trial the amendment is permitted in accordance with law. Moreover, if the said amendment is carry out no hardship caused to the otherside and it is helpful to the parties to decide the real controversy between the parties.*

*It is pertinent to note here that the plaintiff is seeking an order to proposed amendment only with regard to facts is concerned. The trial has not yet begin in between the parties. Therefore, if the said amendment is allowed really it would avoid multiplicity of proceedings.*

*8. The Hon'ble Supreme Court of India has lays down Principles for Amendment of Pleadings in a decision reported in 2022 SCC OnLine SC 1128, decided on 01.09.2022]*

*“Our final conclusions may be summed up thus:*

*(i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negatived.*

*(ii) 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 other side. This is mandatory, as is apparent from the use of the word “shall”, in the*

*latter part of Order VI Rule 17 of the CPC.*

*(iii) The prayer for amendment is to be allowed*

*(i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and*

*(ii) to avoid multiplicity of proceedings, provided*

*(a) the amendment does not result in injustice to the other side,*

*(b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and*

*(c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).*

*(iv) A prayer for amendment is generally required to be allowed unless*

*(i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,*

*(ii) the amendment changes the nature of the suit,*

*(iii) the prayer for amendment is malafide,  
or*

*(iv) by the amendment, the other side  
loses a valid defence.*

*(v) In dealing with a prayer for amendment  
of pleadings, the court should avoid a  
hypertechnical approach, and is ordinarily  
required to be liberal especially where the  
opposite party can be compensated by  
costs.*

*(vi) Where the amendment would enable the  
court to pin-pointedly consider the dispute  
and would aid in rendering a more  
satisfactory decision, the prayer for  
amendment should be allowed.*

*(vii) Where the amendment merely sought to  
introduce an additional or a new approach  
without introducing a time barred cause of  
action, the amendment is liable to be  
allowed even after expiry of limitation.*

*(viii) Amendment may be justifiably allowed  
where it is intended to rectify the absence of  
material particulars in the plaint.*

*(ix) Delay in applying for amendment alone  
is not a ground to disallow the prayer.  
Where the aspect of delay is arguable, the*

*prayer for amendment could be allowed and the issue of limitation framed separately for decision.*

*(x) Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.*

*(xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment*

*is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi, 2022 SCC OnLine Del 1897)”*

9. *On perusal of the entire materials on record, it appears to Court that the proposed amendment is very much necessary to adjudicate the real controversy between the parties and also it neither creates any new cause of action nor alter the nature of the suit. The contention of the defendants in respect to the delay does not holds any kind of water. The plaintiff ought to have prove the amended facts. Hence, I have not found any good grounds to reject the application. In view of the above, this Court is of the considerable opinion that the application deserves to be allowed on costs. Therefore, I answer **point No.1 in the affirmative.***

10. **Point No.2:** *I proceed to pass the following;*

**ORDER**

*I.A. No.XII filed by the plaintiff  
under Order VI Rule 17 R/w Sec.151 of*

*Civil Procedure Code is hereby allowed  
on cost of Rs.500/-.*

*Thereby, the plaintiff is permitted to  
carryout the amendment as prayed in  
the application.*

*For amendment and amended  
plaint by: 03.06.2026.*

*(Dictated to the Stenographer directly on computer, script  
corrected and then pronounced by me in the Open Court on this the  
**21<sup>st</sup> day of April, 2026**)*

*sd/-*

*(Smt. Sarvamangala K.M.)  
I Addl. Senior Civil Judge and JMFC.,  
Hubballi.*