

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.296/2025

Dated this the 28th day of April, 2026

Plaintiff : Chandrahas S/o Praveen Gudihal and
another.

.Vs.

Defendant : Praveen S/o Ashok Gudihal and others.

PARTIES TO I.A. NO.V

Applicant/s : Chandrahas S/o Praveen Gudihal and
another.

.Vs.

Opponent/s : Praveen S/o Ashok Gudihal and others.

- i. Provision under which application is filed : Under Order 6 Rule 17 R/w Sec.151 of CPC.
- ii. Relief sought for : For amendment of plaint.
- iii. The date on which application is filed : 11.03.2026
- iv. Number of the application : V
- v. The date on which objections are filed by : 28.03.2026 (by D.1 & D.2)

different opponents

*vi. The date on which : 28.04.2026
orders were passed on
the said application*

ORDERS ON I.A. NO.V

This order arises out of interlocutory application No.V filed by the applicants/plaintiffs 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 ಪತ್ರ ಪ್ಯಾರಾ ನಂ.6 ಮತ್ತು 9ನೇ ಲೈನಿನಲ್ಲಿ, ಪ್ರತಿವಾದಿ 1ರ ಪದದ ನಂತರ ಮತ್ತು ಅವನ ಸಹೋದರನಾದ ಕಿಣಿ ಅನ್ನುವ ಪದವನ್ನು ತೆಗೆದು ಹಾಕುವುದು ಅತಿ ಅವಶ್ಯಕತೆ ಇರುತ್ತದೆ.*
2. *ದಾವಾ ಆಸ್ತಿಯ ವಂಶಾವಳಿಯ ಪ್ಯಾರಾದಲ್ಲಿ, 2ನೇ ಲೈನಿನಲ್ಲಿ, ಚಂದ್ರಹಾಸ ಗುಡಿಹಾಳ (ಪ್ರತಿವಾದಿ ನಂ.1) ಅಂತಾ ಪದದಲ್ಲಿ, ಚಂದ್ರಹಾಸ ಪದವನ್ನು ತೆಗೆದು ಪ್ರವೀಣ ಅಂತಾ ಹೆಸರನ್ನು ಅದೇ ಜಾಗದಲ್ಲಿ ಸೇರಿಸಬೇಕಾಗಿದೆ.*

2. The brief facts of the affidavit annexed to application is that, the plaintiffs have filed this suit for the relief of partition and separate possession and declaration against the defendants. It is further submitted that, it is necessary to make amendment in the plaint in para No.6, 9th line and para No.2 and the said mistakes were due to typographical error. The amendment is necessary in deciding the real controversy between the parties, the facts will be of more clarity and crystalized. The Amendment of prayer, and for consolidating same with prayer of damages, the nature of suit will not change and the present Amendment necessary in order to

adjudicate real controversies between the parties and the amendment now sought will not alter materially or substitute cause of action or the nature. Hence, prayed to allow the applications.

3. The defendants No.1 and 2 have filed objections and contending that the application filed by the plaintiffs is false, frivolous, vexatious. The plaintiffs have not given any reason for the said amendment in the said application and have not provided any evidence for the same. Hence, prayed to dismiss the application.

4. Heard arguments.

5. The following points are arose for my consideration.

- Point No.1: Whether the plaintiffs have 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 filed by the plaintiffs against the defendants for the relief of partition and separate possession and declaration is concerned.*

8. It is pertinent to note here that the plaintiff is seeking an order to proposed amendment only with regard to delete the unwanted words in the name is concerned. The trial has not

yet begin in the present suit on hand. In the stage of plaintiff evidence this application is filed by the plaintiff, Therefore, if the said amendment is allowed really it would avoid multiplicity of proceedings.

9. in this aspect I would like to rely upon the decision of our Hon'ble Supreme Court of India reported in 2022 SCC OnLine SC 1128, decided on 01.09.2022, wherein this decision has lay down Principles for Amendment of Pleadings:

“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)”

10. On perusal of the entire materials on record, it is 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 plaintiffs ought to have prove the amended facts. Therefore, the objections raised by the defendant is not sustainable in law. Any how delay is caused on the part of the plaintiff, hence application is to be allowed on cost, except this I have not found any good grounds to reject the application Therefore, I answer **point No.1 in the affirmative.**

11. **Point No.2:** On the basis of my reasons on point Nos.1, I proceed to pass the following;

ORDER

I.A. No.V filed by the plaintiffs under Order VI Rule 17 R/w Sec.151 of C.P.C. is hereby allowed on cost of Rs.200/-.

Thereby, the plaintiffs are 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 **28th day of April, 2026**)*

sd/-

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