

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.458/2023

Dated this the 17th day of April, 2026

Plaintiff : Kumari. Dia D/o Kirankumar Murakonda
Represented by her natural guardian
mother Smt. Mythili W/o Kirankumar
Murakonda.

.Vs.

Defendant : Mr. Kirankumar S/o Venkatappaiah
Murakonda and others.

PARTIES TO I.A. NO.IX

Applicant/s : Kumari. Dia D/o Kirankumar Murakonda
Represented by her natural guardian
mother Smt. Mythili W/o Kirankumar
Murakonda.

.Vs.

Opponent/s : Mr. Kirankumar S/o Venkatappaiah
Murakonda and others.

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

- ii. Relief sought for : For amendment of *plaint*.
- iii. The date on which application is filed : 13.01.2026
- iv. Number of the application : IX
- v. The date on which objections are filed by different opponents : 28.01.2026 (by D.1 & 2)
- vi. The date on which orders were passed on the said application : 17.04.2026

ORDERS ON IA No.IX

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

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

Description of the proposed properties is below:

1. Residential house bearing No.6-60 assessment No.634 situated in Vatticherakuru Gram (Mandal), Taluk Guntur, Dist:Guntur, State:Andra Pradesh.

2. Agricultural land bearing survey No.362/3 measuring 1 acre 18 cent situated in Vatticherakuru Gram (Mandal), Taluk Guntur, Dist:Guntur, State:Andra Pradesh.

To insert after paragraph No.3 of the *plaint*:

Para No.3(a)

The above said properties are ancestral properties of the plaintiff and the plaintiff, being a legal heirs, has right, title, interest and possession over the said properties and is entitled to claim partition and separate possession therein.

2. The brief facts of the affidavit annexed to application is that, during the pendency of the suit, it has noticed that certain ancestral properties are available and liable for partition. But inadvertently omitted in the plaint. The omitted properties are to be added in para No.3 and 3(a). the said properties are ancestral properties of the plaintiff and defendants. The plaintiff being a legal heir has right, title, interest and possession over the said properties and is entitled to claim partition and separate possession. Hence, prayed to allow the application.

3. The defendant No.1 and 2 have resisted the application by contending that the paras of the said affidavit are all false and created for the purpose of filing of this application. It is further contended that the proposed suit properties are not ancestral properties. The properties are self acquired properties of Venkatappaiah S/o M Somaiah i.e., the husband of defendant No.2. During his lifetime he had executed Will in favour of defendant No.2 on 08.01.2016. The said defendant No.2 initiated the probate proceedings before the I Addl. District and Session Court, Hubballi in P & Sc. No.8/2024 and Probate certificate has been issued by the Hon'ble Court. Hence, the defendant No.2 is an absolute owner of the

properties. Neither the plaintiff nor the other defendants has any right or interest over the property. The proposed suit properties are not properly described in the suit and no boundaries of each of the proposed suit properties are forthcoming. Unless the boundaries are properly described, the suit is liable to be dismissed. The very object of the plaintiff is to delay the matter and nothing else. The proposed amendment is not a formal in nature and it will affect the proceedings and also if such application is allowed, it will amount to allowing to plead false contentions in the plaint. 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 of plaintiff's share in the suit schedule properties against the defendants. When the*

matter is set down for her evidence, they came up with the present application seeking proposed amendment by way of including the property in the para No.3. On careful perusal of the materials available on record it is noticed that this is an application filed by the plaintiffs under Order VI Rule 17 of the CPC seeking amendment of plaint for inclusion of certain additional properties which according to them were inadvertently omitted at the time of filing of the suit. The learned counsel for the plaintiff contended that the suit is one for the partition and separate possession of joint family properties and due to oversight some of the joint family properties could not be included in the schedule of the plaint. It is further contended that the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties and to avoid multiplicity of proceedings.

Per contra, the learned counsel for Defendant no. 1 and 2 Vehemently opposed the application, contending that the properties now sought to be included are not joint family properties, but are the self-acquired properties of the proponent and therefore the question of permitting amendment does not arise. On these grounds, they prayed for dismissal of the application.

It is well settled that in a suit for partition, inclusion of all alleged joint family properties is essential for effective and complete adjudication of the dispute. The dominant object of allowing amendment under Order VI Rule 17 is to minimize litigation and to decide the real controversy between the parties.

*In the present case, the plaintiffs have sought to include certain properties. Claiming them to be joint family properties, the objection raised by the defendants that the said properties are self-acquired in nature is essentially a matter of defense, which requires adjudication during the course of trial on the basis of evidence. At the stage of considering an application for amendment, this Court is not required to go into the merits of the rival contentions or to decide. Whether the properties are ancestral or self-acquired, such a determination can only be made after full-fledged trial. Further, the proposed amendment does not change the nature of the suit. The suit continues to be one for partition and separate possession. The amendment is only for inclusion of additional properties which according to the plaintiffs form part of the joint family estate. Though the application is filed at the stage of plaintiff's evidence, the plaintiffs have explained that the omission was inadvertent. In partition matters, a liberal approach is warranted, particularly when refusal to allow amendment may result in multiplicity of proceedings. No serious prejudice would be caused to the defendants as they would have an opportunity to file Additional written statement can contest the claim on merits. Hence, I have not found any good grounds to reject the application and objection raised by the defendant No.1 and 2 is not sustainable. 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.***

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

ORDER

I.A. No.IX 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:02.05.2026.*

*(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **17th day of April, 2026**)*

sd/-

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