

KAHS710001772008



**IN THE COURT OF PRINCIPAL CIVIL JUDGE AND J.M.F.C. AT
HOLENARASIPURA**

PRESENT:- Smt. Chethana. B.A., LL.B.,
Prl. Civil Judge & JMFC,
Holenarasipura.

Dated this the 23rd day of March – 2026

O.S.No:134/2008

Plaintiff/s

1. N. Rani,
W/o. Late. Umesha,
Aged about 35 years,
2. K.N.Nandini,
D/o. Late. Umesh,
Aged about 30 years,

Both are R/at:
Kamasamudra Village,
Halekote Hobli,
Holenarasipura Taluk

(By Sri. B.N.R, Adv.)

V/s.

Defendant/s

1. Chikkamallamma
Dead by Lr's,
2. Karthik.
S/o. Late Umesh,
Aged about 27 years,
R/at: Kamasamudra Village,

Halekote Hobli,
Holenarasipura Taluk.

3. M.Shivaraj,
S/o. Late Mylariah,
Aged about 75 years,
4. Janaki (Dead)
5. Shivappa,
S/o. M.Shivaraj,
Aged about 38 years,
6. Anusuya,
D/o. M.Shivaraj,
Aged about 35 years,

Defendant Nos.1 to 6 are R/at:
Kamasamudra Village,
Halekote Hobli,
Holenarasipura Taluk.

7. Bhagyamma,
W/o. Ananda,
Dead by Lr's
- 7(a) Latha K.A.,
W/o. Arun Kumar,
Aged about 38 years,
- 7(b) Divya K.A.,
W/o. Late. Sathyanarayana C.V.,
Aged about 35 years,

Defendant Nos.7(a) and (b) are R/at:
Near Panchramanna's house,
Near M.S.I.L Bar,
K.R.Nagar Road,
Kallukunike, Hunasuru Town.

8. Leelavathi,
W/o. Shivaram,
Aged about 48 years,
C/o. Chayadevi, Sunnada Beedi,

Channapattana,
Ramanagara District.

9. Virupakshamma,
W/o. Ashwatha,
Aged about 42 years,
R/at: Uppara Beedi,
Holenarasipura.
10. Dhanalakshmi,
W/o. Venkatesh,
Aged about 40 years,
R/at: Dodda Masidi Road,
Hunasuru, Mysore District.
11. Chayadevi @ Lakshmi,
W/o. Venkataramaswamy,
Aged about 38 years,
R/at: Sunnada Beedi, Channapattna,
Ramnagara District.
12. H.Ranganna @ Rangaswamy,
S/o. Sunnada Thimmaiah,
Aged about 70 years,
R/at: Hassan-Mysore Road,
Near Water Tank,
Holenarasipura.
13. Yogisha,
S/o. Nagaiah,
Aged about 35 years,
14. M.S. Kumara,
S/o. Seeniah,
Aged about 35 years,
15. Mamatha,
W/o. N.Ramachandra,
Aged about 30 years,

Defendant Nos.13 to 15 are R/at:

Mavinakere Village,
Halekote Hobli,
Holenarasipura Taluk.

16. Sujatha,
W/o. K.G.Shivanna,
Major,
R/at: Kamasamudra Village,
Halekote Hobli,
Holenarasipura Taluk.

**(Sri. P.D.D. Adv. for Def. Nos.1 &
2, Sri. H.S.A. Adv. for Def.
Nos.3,6,5,8 to 11, Sri. J.N. Adv.
for Def.No.4, Sri. R.S. Adv. For
Def. No.12, Sri. K.S.S. Adv. For
Defe. Nos.13 to 15)**

IA No. LIV

Applicant/s : Rani

V/s

Opponent/s : Chikkamallamma and others

**ORDER ON APPLICATION FILED UNDER ORDER VI RULE 17
OF C.P.C.**

This application has been filed by the applicant/plaintiff under Order VI Rule 17 of C.P.C. seeking to amend the plaint as stated in the application. The applicant has sought to amend the plaint as follows:-

"ದಾವಾ ಬಿ ಶೆಡ್ಯೂಲ್ ಆಸ್ತಿಯ ಸರ್ವೆ ನಂಬರ್ 63/1 ರಲ್ಲಿ 1 ಎಕರೆ

7 ಗುಂಟೆ ಎಂದು ತಪ್ಪಾಗಿ ನಮೂದಾಗಿರುವುದನ್ನು ತೆಗೆದು ಸರ್ವೆ

ನಂ.63/1 ರಲ್ಲಿ 0.16 ಗುಂಟೆ ಜಮೀನು ಹಾಗೂ ಅದೇ ಸರ್ವೆ ನಂಬರ್‌ನ ಚಿಕ್ಕು ಬಂದಿಯಲ್ಲಿ ಉತ್ತರಕ್ಕೆ ಮತ್ತು ನಾಲೆ ಎಂದು ತಪ್ಪಾಗಿ ನಮೂದಾಗಿರುವುದನ್ನು ತೆಗೆದು 12ನೇ ಪ್ರತಿವಾದಿಯ ಜಮೀನು ಹಾಗೂ ದಕ್ಷಿಣಕ್ಕೆ ಖಾಸಗಿಯವರ ಜಮೀನು ಎಂದು ತಪ್ಪಾಗಿ ನಮೂದಾಗಿರುವುದನ್ನು ತೆಗೆದು ಸರ್ವೆ ನಂ. 64 ರ ಜಮೀನು ಎಂದು ತಿದ್ದುಪಡಿ ಮಾಡಿಕೊಳ್ಳಲು".

2. In the affidavit annexed to the application, it is stated that, the plaintiff has filed the suit seeking the relief of partition and separate possession. While instituting the suit, due to oversight, the extent of schedule 'B' property has been mentioned as 1.07 acre in Sy.No.63/1. The same has to be corrected as 0.16 guntas in Sy.63/1. Accordingly, in the schedule on the Northern side it has been wrongly mentioned as Canal instead of land of defendant No.12 and on the Southern side it has been wrongly mentioned as land of private person instead of mentioning the property in Sy.No.64. Hence, the same has to be corrected by amending the plaint. If the proposed amendment is allowed to be carried out, the nature of the suit will not be changed and it will not give raise to new cause of action. if the application is allowed, the defendants will not be put to any hardship. There is not *malafide* intention in filing this application. If this application is not allowed, the plaintiff would be put to

irreparable loss and injury. On these grounds, it is prayed to allow the application.

3. The defendant Nos.3, 5, 6, 8 to 11 have filed objections to the application by contending that, the extent of property in Sy.No.63 is yet to be decided. The said property in Survey No. 63 is the joint family property. Any change cannot be made in Survey No.63/1 till this suit is decided. After 16 years from the date of filing of the suit this application has been filed. Hence, the same is not maintainable. On these grounds, it is prayed to dismiss the application.

4. The defendant No.12 has filed objections to the application by contending that, already 18 years have been elapsed from the date of filing of the suit. Hence, there is delay in filing the application. There is no *bonafide* reasons in the application for the proposed amendment. The plaintiff has not produced any documents in support of the proposed amendment. There was 1.17 guntas of land in 'B' schedule property dill date. However, the plaintiff is seeking to amend the plaint that there is 0.16 guntas in that survey number. However, there is no assertion with regard to the remaining land in that Survey number. The defendant No.12 has filed the suit in the court of Additional Civil Judge and JIMFC court, Holenarasipura against the plaintiff in

relation to 0.16 guntas of land as per O.S.No.199/2010. The said suit is pending consideration. If the application is allowed, this defendant would be put to irreparable loss and injury. Hence, it is prayed to dismiss the application.

5. Other defendants have not filed any objections to this application.

6. Heard argument. Perused entire record. The following points arise for the consideration of this Court:

1. Whether the applicant has made out grounds to allow the application?
2. What order?

7. The answer of this Court to the above points are as under:

Point No.1: In the Affirmative

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

REASONS

8. Point No.1: This suit is filed seeking the relief of Partition and separate possession, permanent injunction and the Sale Deed and Gift Deed as shown in the plaint will not bind the plaintiff. The applicant has sought proposed amendment to the

plaint. Per contra, the defendant Nos.3, 5, 6, 8 to 11 and 12 have objected the amendment by filing objections stated above.

9. It is one of the well settled principles of law that, the purpose and object of Order 6 Rule 17 of the Code of Civil Procedure is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. Amendment cannot be claimed as a matter of right and under all circumstances, but the courts while deciding such prayers should not adopt a hyper-technical approach. Liberal approach should be the general rule, particularly in cases where the other side can be compensated with costs. Normally, amendments are allowed in the pleadings to avoid multiplicity of litigations.

10. It is the specific stand of the plaintiff that, while instituting the suit, the extent of 'B' schedule property and boundary on North and South has been wrongly mentioned as stated above due to oversight. Hence, the same has to be corrected by amending the plaint. In the case on hand, the amendment sought to be carried out by the plaintiff *prima-facie* seems to be bonafide, legitimate and necessary for the purpose determining the real questions in controversy between the parties. Moreover, the heavy burden lies on the plaintiff to prove her

case by adducing substantial evidence. Merely permitting the plaintiff to amend the plaint, to include the relief as sought does not mean that the plaintiff has proved his case. Whatever the contentions taken up by the plaintiff has to be proved on her own. Therefore, if this application is allowed no prejudice will be caused to the other side as the defendants will get opportunity to file additional written statement. Therefore, by considering the pleadings, documents on record, contents of affidavit and objections filed, for the reasons stated supra, the applicant/plaintiff has made out grounds to allow **the application.** **Accordingly, point No.1 is answered in the Affirmative.**

11. Point No. 2: For the reasons stated while discussing point No.1, this Court proceed to pass the following;

ORDER

I.A.No.LIV filed by the applicant/plaintiff
under Order VI Rule 17 of CPC is hereby
allowed.

No order as to costs.

(Dictated to the stenographer directly on to the computer typed by her, transcript revised, corrected and then pronounced by me in the open court on this the **23th day of March - 2026**)

(Smt.Chethana)
Prl. Civil Judge & JMFC
Holenarasipura.

