

KAHS810011742015



IN THE COURT OF PRL CIVIL JUDGE AND JMFC.,
SAKALESH PURA

:-Present:-

SRI LAKSHMI NARASIMHA R.V, B.A.L., L.L.B.,

Prl. Civil Judge & JMFC., Sakaleshpura

Dated : 30th day of October, 2025

O.S. NO. 124/2015

Plaintiffs : Sri. Ravindra Kumar and others
V/s

Defendants : Sri. Dharmappa and others

IA NO.XIII

Plaintiffs : Sri. Ravindra Kumar and others
V/s

Defendants : Sri. Dharmappa and others

ORDERS ON IA NO.XIII FILED BY THE PLAINTIFFS

U/O. VI RULE 17 OF CPC.,

This application is filed when the matter is posted for cross examination of DW-1. The plaintiffs have filed the present application U/o. VI Rule 17 of CPC praying this court to permit the plaintiffs to amend the plaint by amending the survey number of suit



schedule property as Sy No.177/2 instead of Sy. No.177/1 and the boundaries as mentioned in the application.

2. In the affidavit, plaintiff No.2 has stated that they have filed the present suit for the relief of declaration, possession and mandatory injunction in respect of suit schedule property. The suit schedule property was originally numbered as Sy No.177. Plaintiff No.1 was acquired 3 acres 21 guntas and one B.S. Mahammad Fazil acquired 3 acres 21 guntas by way of grant. The said Mohammad Fazil had sold his property in favour of defendant No.2. Thereafter defendant No.1 and 2 got created the GPA and agreement of sale in respect of property granted in favour of plaintiff No.1 and got created the sale deed at Ex.P.4. Thereafter Sy No.177 was phoded as Sy No.177/1 and Sy No.177/2. Thereafter defendant No.2 has sold both the parties in favour of defendant No.3. At that time also it was mentioned as Sy No.177 only. As both the properties were measuring 3 acres



21 guntas and the same person as executed the sale deed, due to oversight it was mentioned as Sy No. 177/1. Whereas Sy No.177/2 was granted in favour of plaintiff No.1. He came to know about the said fact only upon perusal of 11E sketch at Ex.D-63. Hence, it is very much necessary to amend the Survey number of the suit schedule property. The proposed amendment neither changes cause of action nor nature of the suit. If the application is not allowed, the plaintiffs would put to irreparable loss and injury. Hence prayed to allow the application.

3. The defendants have filed objections to the application and contended that the present application is barred by limitation. If the Survey number is changed, it would change the nature of suit. The plaintiffs have filed this application only to fill up the lacuna. Sy No. 177/1 and Sy No.177/2 are belonging to defendant No.4. Hence, present application is not maintainable after lapse of 10 years. The amendment cannot be made after



commencement of trial. Accordingly, prayed to dismiss the application.

4. Heard arguments and perused the records.

5. The following points would arise for the determination:

1. Whether the present application as sought by the plaintiffs is just and necessary for the proper adjudication of the matter involved in the suit?

2. What order?

6. The findings on the above said points are under:

Point No.1 : In the *Affirmative*

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



REASONS

7. **Point No.1 :-** The plaintiffs have filed the present suit for the relief of declaration, possession and mandatory injunction and also declared the sale deeds dated 23.09.2000 and 28.01.2013 are not binding on the share of the plaintiffs. The plaintiffs have contended that the suit schedule property was originally numbered as Sy No.177. Only upon 11E sketch at Ex.D39, he came to know that their property is bearing Sy No.177/2 but not Sy No. 177/1. On perusal of the sale deed dated 21.02.2011, it is only mentioned as Sy No.177 measuring 3 acres 21 guntas. In the Gift deed dated 28.01.2013 it is mentioned both Sy No.177/1 and Sy No.177/2. Further it is mentioned in the gift deed that Sy No.177/2 was belonging to Ravindra Kumar and executed sale deed in favour defendant No.3 through GPA. On perusal of the plaintiff averments, it appears on prima-facie that the plaintiffs have denied the said GPA and sale deed dated 23.09.2000.



8. Further the plaintiffs are claiming the relief with respect to the property, wherein sale deed executed on basis of the GPA by defendant No.2 and challenged the very execution of GPA and sale deed. There are also claiming pre-existing right in respect of Sy No.177/2. On the other hand, the contentions raised by the defendants in the application is that the change of Survey number would amounts to change of cause of action and nature of the suit. On perusal of pleadings, it appears on prima-facie that though they have mentioned Sy No.177/1, the pleadings are in relation to Sy No. 177/2. Hence at this stage it appears that it would not change the nature of suit and cause of action. Further, mere allowing the application does not mean that this court has accepted the plea of the plaintiffs. However, it is subject to proof and the defendants at liberty to disprove the said averments. Hence, this court is opinion that the proposed amendment neither changes the nature of the suit nor cause of action. On the



other hand, if the application is not allowed, the plaintiffs may suffer loss and injury and also it would lead to multiplicity of proceedings. Further neither the plaintiff nor the defendants would enjoy the fruits of decree. With these observations, application deserves to be allowed. Accordingly point No.1 is answered in the **Affirmative**.

9. Point No.2 :- For the above discussed reasons, this Court proceeds to pass the following;

ORDER

The application No. XIII filed by the plaintiffs U/o. VI Rule 17 of CPC is hereby allowed on costs of Rs. 2,000/-.

The plaintiffs are permitted to amend the plaint as prayed and to file amended plaint.



Further, it is made clear that this being oldest case, the plaintiffs shall not take unnecessary adjournments.

[Dictated to the Stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 30th day of October 2025]

(Lakshmi Narasimha R.V.)
Prl. Civil Judge and JMFC.,
Sakaleshpura.