



**IN THE COURT ADDL. SENIOR CIVIL JUDGE & JMFC,
HAVERI.**

:: PRESENT ::

SMT. SHOBHA, B.G., M.A., LL.B.,
ADDL. SENIOR CIVIL JUDGE & JMFC,
HAVERI.

Dated this the 25th day of July-2026
O.S.No.5/2020

Plaintiff/s: Smt. Lakshmavva @ Lakshmibai W/o Rangappa
Dasara & another.

(Rep.by Sri. B.B.K., Adv.,)

-Vs.-

Defendant/s: Krishnappa S/o Hanamanthappa Dasara
& others.

(D1 to 3 by Sri.P.N.A., Adv.,)

I.A. No.IX

Applicant : Krishnappa S/o Hanamanthappa Dasara
(Deft) & others.

-Vs.-

Opponent : Smt. Lakshmavva @ Lakshmibai W/o Rangappa
(plaintiff) Dasara & another.

**ORDERS ON I.A.NO.IX U/O. 6 RULE 17 R/W.SEC 151 OF
CPC .**

This is an application filed by the defendant No.1
U/o.6 Rule 17 R/w. Sec 151 of CPC seeking permission to
amend the written statement as prayed in the application.



2. IA No.IX is accompanied with an affidavit sworn by the defendant No.1, wherein he stated that in genealogy furnished by the plaintiffs, his brother by name Vasappa was not included and the property bearing Sy No.39/3 allotted to the share of Vasappa was not included in the plaint. He brought the notice of his advocate about said fact. Hence this application is filed seeking amendment of written statement. Therefore impleading of proposed amendment is necessary. If the defendant No.1 is not permitted amend the written statement he will be put to irreparable loss and injury. Hence prayed to allow the application.

3. The said application is resisted by the defendant by filing objection contending that the application is not maintainable either in law or on facts. He denied the contents of affidavit accompanied with the application. Further contended that the original propositious Ambaleppa Dasar had 2 children namely Bheemappa and Hanumantappa. The said Bheemappa got married with



Narasavva, out of their wedlock had 3 daughters i.e., 1.Gangavva, 2. Hanumavva, 3. Laksh mavva. The said deceased Gangavva had children by name Tulasavva Yallavva, Parasuram and Manjunath. Deceased Hanumavva had children by name Tulasavva and Devakka. Said Laksh mavva is the plaintiff No.1. Hanumantappa Ambaleppa Dasar had 2 wives namely Lalitavva and Lakavva. Said Lalitavva had sole son by name Vasappa. Lakavva had 4 children namely Krishanappa, Ramappa, Shivalilavva and Hemavva. The S/o Lalitavva by name Vasappa was given in adoption to the sister of Lalitavva by name Hanumavva W/o Govindappa Dasar. Therefore his name is mentioned as Vasappa A/f Govindappa Dasar in documents. The properties stands in the name of Govindappa i.e., Sy No.39/3 measuring 3.31 acre and in Sy No.73/3 measuring 1.6 acres situated at Konanatambagi village and panchayat property. After the death of Govindappa the name of Vasappa was entered with respect



to said properties. Said Vasappa had two daughters namely Shekavva and Jayashree. After the death of Vasappa Shekavva and Jayashree @ Jayashreedevi got entered their name with respect to 2 properties. Recently 14-15 years ago they have sold the property bearing Sy NO.39/3. The name of purchase was entered in the records. Therefore said Vasappa A/f Govindappa Dasar is not belongs to the family of plaintiffs and defendants. Hence said Vasappa and his property cannot be included in this suit. The defendant No.1 filed this application in order to cause to the plaintiffs. Hence prayed to reject the application with costs.

4. Heard arguments on both side.

5. On the basis of the above facts, the following points that arise for my consideration are:

1. Is it just and necessary to allow the application for the purpose of determining the real question in controversy between the parties?
2. What order?



6. My answer to the above points is :

Point No.1 : In the Affirmative;

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

REASONS

7. **Point No.1:** On perusal of the contention urged by both parties and records, it appear that this suit is filed for the relief of partition and separate possession with respect to the suit schedule properties. The present application is filed by the defendant No.1 seeking amendment of his written statement. According to him the proposed amendment is very much necessary. In genealogy furnished by the plaintiffs, his brother by name Vasappa was not included and the property bearing Sy No.39/3 allotted to the share of Vasappa was not included in the plaint. He brought the notice of his advocate about said fact. Hence this application is filed seeking amendment of written statement. According to the plaintiffs said Vasappa and his



properties are not relating to the plaintiffs and defendants' family as contended in objection.

8. However this suit is filed in the year 2020. After commencement of evidence this application is filed. No doubt the application for amendment of pleadings has to be filed before commencing trial. But there is no bar to file application for amendment of written statement after commencement of trial. The object of order 6 Rule 17 is entirely discretionary, to be used judiciously on consideration of the circumstances of each case. The rule allows, 'at any stage', all amendments may be allowed and if the said amendment is necessary for the purpose of determining the real question in controversy between the parties. Further it is a well-settled principle that the proposed amendment might have been sought, it will have to be allowed if no injustice is caused to either side. In the instant suit, whether sister of Lalitavva by name Hanumavva and Govindappa Dasar have adopted Vasappa



or whether said Vasappa and his properties are relating to family of plaintiffs and defendants? cannot be decided in this application. When the defendant No.1 has taken contention as mentioned in proposed amendment regarding non impleading of Vasappa and his properties, the burden of proof lies on him to prove the same. This suit is filed for partition and separate possession with respect to the suit schedule properties. Under such circumstances opportunity has to be given to the defendant No.1 to include necessary pleadings in written statement by way of amendment. If the defendant No.1 is permitted to amend the written statement as sought in the application, no hardship and injury will be caused to plaintiffs. They are having an opportunity to file rejoinder to the amended written statement. It is true that the application is filed at belated stage but mere delay is not a ground for rejection of application. The delay may be condoned by imposing reasonable costs. Accordingly this



court is of the opinion that the application deserves to be allowed. Hence, point No.1 is answered in the **affirmative**.

9. **Point No.2:-** For the above discussion, I proceed to pass the following;

ORDER

IA No.IX filed U/O.6 Rule 17 r/w. sec 151 of CPC by the defendant No.1 is hereby allowed on payment of cost of Rs. 300/-.

The defendant NO.1 is permitted to amend their written statement as prayed in the application.

(Dictated to the stenographer, on computer, computerized by him, revised corrected and then pronounced by me in the open Court on this the **24th Day of July-2026**)

(Smt.Shobha B.G.)
Addl. Senior Civil Judge and
JMFC, Haveri.