



**IN THE COURT OF THE CIVIL JUDGE AND JUDICIAL
MAGISTRATE FIRST CLASS, SAVANUR.**

PRESENT : **SRI. SRINIVASA. S.N.**
B.A., LL.M.,
Civil Judge and JMFC.,
Savanur.

O.S.NO.201/2022

DATED THIS 5TH DAY OF JANUARY, 2026

PLAINTIFFS: Puttavva Shivappa Kuri @ Kurabar &
another
[By Sri. P.B.H., Advocate]

Vs

DEFENDANTS: Vinod Shivappa Kuri @ Kurabar & 2 others
[D-1 and D-2 by Sri S.B.B. Advocate]
[D-3 by Sri N.S.P., Advocate]

PARTIES IN IA-IX and X

APPLICANTS/ Smt. Rekha W/o Ningarajagoudar and
(Plaintiffs) another

Vs

OPPONENTS: Vinod Shivappa Kuri @ Kurabar & 2 others
(Defendants)

i	Provision under which the applications are filed	IA-IX:- U/O VI Rule 17 read with Section 151 of CPC IA-X:- U/O VII Rule 14 of CPC
ii	Relief's sought for	IA-IX:- Seeking permission to amend the plaint



		IA-X:- Seeking permission to produce documents
iii	The date on which the applications are filed	IA-IX:- 20-02-2025 IA-X:- 20-02-2025
iv	The date on which the objections are filed by different opponents	IA-IX:- 09-07-2025 & 22-08-2025 IA-X:- 22-08-2025
v	The date on which the orders were passed on the said application	05-01-2026

(Srinivasa. S.N)
Civil Judge & JMFC.,
Savanur.

COMMON ORDER ON I.A.NO.IX AND X

The plaintiff has filed I.A.No.IX U/O VI Rule 17 read with Section 151 of CPC, seeking permission to amend the plaint and I.A.No.X U/O VII Rule 14 of CPC seeking permission to produce documents, in the interest of justice and equity.

2. In the accompanying affidavit, the plaintiff no.2 has stated that to amend the plaint by inserting a new paragraph as para-4A stating that defendant No.3, after the death of her first husband, has remarried one Malatesh and that out of the said wedlock a daughter by name Keerthi is born. Consequential amendment is sought in the prayer column by modifying the share claimed from



1/5th to 1/4th. It is contended that defendant No.3 has not disclosed her remarriage and the birth of the child, which has a bearing on determination of shares in the suit schedule properties. The plaintiffs seek permission to produce documents in support of the above pleadings. Therefore they stated that the proposed amendments are necessary for the proper and effective adjudication of the dispute between the parties. Hence, they pray to allow the applications.

3. Per contra, Defendant No.1 and 2 have filed objections to I.A. No.9 contending that the plaintiff was already aware of the remarriage of defendant No.3 and that the present application is filed only to prolong the proceedings. They submitted that I.A.No.10 may be allowed on cost.

4. On their hand, the Defendant No.3 has filed objections to both the applications contending that the applications are not maintainable, that the applications are filed with an intention to deprive her legitimate share in the property and that the documents produced are created and concocted ones. It is further contended that the proposed amendment changes the nature of the suit and hence the applications are liable to be dismissed with cost.



5. The points that would arise for the consideration of this court are as follows:-

POINTS

1. Whether the applicants/plaintiffs have made out sufficient grounds to allow the I.A.No.IX and X?

2. What order?

6. The findings of this court on aforesaid points are as follows:-

Point No.1: In the Affirmative

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

:-REASONS:-

7. **Point No. 1:-** The plaintiffs have filed the I.A.No.IX and X seeking permission to amend the plaint and to produce the documents respectively.

8. The Order 6 Rule 17 of the Civil Procedure Code is reads as under;

17. Amendment of pleadings. - The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.



9. On perusal of the records, it is evident that the suit is one for partition and separate possession. Though the applications are filed at the stage of cross-examination of PW-1 and after framing of issues, the proposed amendment relates to the status and family particulars of defendant No.3, which directly affects the determination of shares among the parties. In the present case, the plaintiffs have not satisfactorily explained the reasons as to why the proposed amendments could not be sought before the commencement of trial. However, no material is placed before the Court to establish that due diligence was exercised by the plaintiff or that the errors were discovered only after the trial commenced. The plaintiff has also not explained why these errors have not corrected earlier.

10. This court has relied on the decision of Hon'ble Supreme Court of India, in Civil Appeal No.5909/2022 in W.P.No.201274/2022, reported in **2022 LiveLaw (SC) 729**, in the case of **LIFE INSURANCE CORPORATION OF INDIA versus SANJEEV BUILDERS PRIVATE LIMITED & ANR.** wherein the Hon'ble Apex Court has held that;

70. 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 negated.

(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 & Ors., 2022 SCC OnLine Del 1897)

11. Further, this court has relied on the decision of Hon'ble Supreme Court of India, in CIVIL APPEAL NO...OF 2024 (Arising out of Special Leave Petition (Civil) No.30324/2019) DINESH GOYAL @ PAPPU V/s SUMAN AGARWAL (BINDAL) & ORS., reported in 2024 INSC 726, the Hon'ble Apex Court relied on the above said decision and observed that

“11.2 Over the years, through numerous judicial precedents certain factors have been outlined for the application of Order VI Rule 17.

Recently, this Court in Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr.⁷, after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles:-

(i) 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.



(ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.

(iii) Amendments, while generally should be allowed, the same should be disallowed if –

(a) 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.

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is malafide,

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be kept in mind are –

(I) The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.”

12. The Hon’ble Apex Court laid down broad and liberal principles governing amendment of pleadings. It has been held



that amendments which are necessary for proper adjudication, and which do not prejudice the other side, must ordinarily be allowed, even post-trial commencement, especially if the error is rectifiable and compensable by costs and the court should avoid a hyper-technical approach and be liberal while allowing amendments that help the court determine the real controversy, provided no injustice is caused to the other side.

13. In the present case, though the plaintiff has not furnished a detailed explanation showing due diligence, this Court finds that the proposed amendments will not change the nature of the suit, nor do they introduce any new cause of action. It is well settled that in partition suits, the court is required to determine the correct shares of the parties, and for that purpose, all necessary facts relating to succession and family composition are required to be brought on record. The proposed amendment neither introduces a new cause of action nor alters the basic nature of the suit.

14. As regards the objection that the plaintiff was already aware of the remarriage, the same is a matter of evidence. At the stage of considering an application under Order VI Rule 17 of CPC, the court is not required to adjudicate upon the truth or otherwise of the pleadings. The defendant No.3 will have full opportunity to



rebut the same by filing additional written statement and leading evidence. Similarly, the contention that the documents sought to be produced are concocted cannot be decided at this stage. The admissibility, relevancy, and evidentiary value of the documents are matters to be considered during trial.

15. Allowing the applications will not cause irreparable prejudice to the defendants, whereas rejection may result in incomplete adjudication of the real controversy involved in the suit. Any inconvenience caused to the defendants can be compensated by granting liberty to file additional pleadings and by awarding costs. Therefore, this Court is of the opinion, to avoid multiplicity of proceedings and to enable effective adjudication, the present application is deserves to be allowed with compensatory costs. Accordingly, this Court has answered ***Point No.1 in the Affirmative.***

16. POINT NO.2:- For the foregoing reasons, I proceed to pass the following;

ORDER

I.A.No.IX U/O VI Rule 17 r/w Section 151 of CPC and I.A.No.X U/O VII Rule 14 of CPC, filed by the plaintiffs are hereby allowed on cost of Rs.750/- each. Out of



total cost amount, Rs.750/- is to be paid to
the TLSC, Savanur.

*(Dictated to the stenographer directly on computer, corrected, signed and then
pronounced by me in the Open Court on this the 5th day of January, 2026)*

(Srinivasa. S.N)
Civil Judge & JMFC.,
Savanur.