

KAKB620005262019



IN THE COURT OF CIVIL JUDGE AND JMFC., JEWARGI.

**Present:- Sri.Kashinath V. Uppar, B.Sc., LL.B.,
Civil Judge and JMFC,
Jewargi.**

Dated : This the 14th day of January-2026

O.S.No.116/2019

Between: : Plaintiff

Smt. Manjula D/o Gangadhar Naribol,

(By Sri. S.A.P., Adv.,)

V/s

: Defendants

1. Shruti W/o late Shivanand Naribol & another.

(By Sri. A.S.K., Advocate)

PARTIES TO I.A. NO.11

Applicant/ : Smt. Manjula D/o Gangadhar Naribol
Plaintiff

V/S

Opponent/ : 1. Shruti W/o late Shivanand Naribol
Defendants & another

i.	Provision under which the application is filed	U/o 6 Rule 17 of CPC
ii.	Relief sought for	Amendment of plaint
iii.	The date on which the application is filed	14-08-2025
iv.	Number of the application	IA No.11
v.	The date of which the objections are filed by different opponents	Objection not filed
vi.	The date on which the orders were passed on the said application	14-01-2026

KAKB620005262019



ORDER ON I.A.11 FILED BY PLAINTIFF
UNDER ORDER VI RULE 17 R/W. SECTION 151 OF C.P.C.

1. The plaintiff has filed this application to permit him to carryout necessary amendment.

2. **The proposed amendment as under;**

PARA 3(A) OF PLAINT

3(A) The land bearing sy.No.516/A, was totally measuring 07 acres 08 guntas. That in the family partition amongst the father of the plaintiff an area measuring to the extent of 02 acres 35 guntas was fallen to the share of the father of of the plaintiff and after his demise same was mutated in the name of mother of the plaintiff. It is the sole plaintiff who was taking at most care of her mother and thus out of the services rendered by the plaintiff mother of the plaintiff has bequeathed land bearing Sy.No.516/A, measuring 02 acre 35 guntas in favour of the plaintiff by virtue of a registered Will-deed bearing document No.4/2017-18 dated 24-04-2017 with the consent and knowledge of the defendant No.1. The said registered Will-deed as acted upon and given effect to by way of mutation in the name of the plaintiff. That after the death of mother of the plaintiff, the

KAKB620005262019



plaintiff is enjoying the non suited property as a beneficiary and hence the defendants have no right to claim any share in the said non suited property and hence same is not included in the present suit. Hence, this proposed amendment.

3. Plaintiff stated in sworn affidavit that, the plaintiff has filed the present suit for the relief of partition and separate possession against the defendants in respect of the suit property. The defendant at their written statement have taken a contention that one of the landed property bearing Sy.No.516/A, measuring 02 acre 35 guntas, situated at Naribol village, tq: Jewargi, is not included in the suit. Moreover, the hon'ble court has also framed an issue in that, regard. Therefore, to avoid ambiguity pertaining to the non suited property. The plaintiff want to amend the plaint in that regard. That evidence in the matter is already completed and case is posted for final arguments. If plaintiff is permitted to carryout the proposed amendment, it will not cause any harm and injustice to the other side.

4. Moreover, the proposed amendment does not change the nature of the suit and it does not give a rise

KAKB620005262019



to new cause of action. The proposed amendment is necessary to decide the dispute between the parties as it pertains with regard to the valuable rights of the plaintiff in the immovable property. Therefore, considering the facts and circumstances of the case, the I.A. under reference deserves to be allowed.

5. In spite of sufficient opportunity defendant fails to file objection to I.A.No.11.

6. Heard arguments on plaintiff side.

7. On considering the rival contentions of the parties, the points that would arise for my consideration are as under:

1. Whether the Interim application No.11 filed by the plaintiff U/O.6 Rule 17 of C.P.C., is deserves to be allowed and whether the proposed amendment is necessary to adjudicate the real question of controversy between the parties and whether the applicants in spite of due diligence could not raise the matter before commencement of trial ?

2. What Orders?

KAKB620005262019



8. The plaintiff counsel argued that, the proposed amendment is necessary to adjudicate the real controversy between the parties. If the proposed amendment is allowed, it will not change the nature of case or cause of action. Therefore, proposed amendment is necessary. Therefore, in the event of rejection of the application, valuable right of the plaintiff will be affected. Therefore, plaintiff prayed to allow the application.

9. My answer to the above points are as under:

Point No.1 : In the Affirmative.

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

REASONS

10. **POINT No.1:-** Admittedly this is a suit for partition ;and separate possession against the defendants. The plaintiff filed this application when matter is posted for defendant side arguments. The plaintiff filed by this application to amend the plaint in respect of land bearing Sy.No.516/A, measuring 07 acre 20 guntas. The plaintiff has want to taken the defence through a this application in respect of land bearing Sy.No.516/A, that, plaintiff is succeed this property

KAKB620005262019



through a registered will deed document bearing No.4/2017-18 through his mother.

11. It is well established principle of law that while dealing with amendment application the court has to consider two aspects, firstly the court has to consider does the proposed amendment is necessary to adjudicate the real controversy in between the parties, and second one is that the court has to consider does the proposed amendment would affect the right of other side. In order to amend pleadings the party has to satisfy the above two aspects. On perusal of proposed amendment it can be said that proposed amendment is required for adjudication of real controversy in between the parties. Moreover, proposed amendment will not prejudice the right of defendants.

12. At this stage it is useful to refer a decision reported in **2016(2) Karnataka L.J. 448, Bijith International builders Bangalore Vs. Dias Varghese C and others**, Wherein the Hon'ble High Court of Karnataka pleased to held that courts to allow amendments for determining real questions in controversy provided not to cause injustice or prejudice

KAKB620005262019



to other side, purpose is to minimize litigation, however pleadings cannot be claimed as a matter of right, party to prove inspite of due diligence could not raise plea before trial.

13. Admittedly this is the suit filed for partition and separate possession in respect of the suit schedule property. The proposed amendment is to take a defense in respect of land bearing Sy.No.516/A, that, plaintiff is succeed this property through a registered will deed document bearing No.4/2017-18 through his mother. On considering the facts of this case this court has issue framed in respect of non inclusion of all family property. Therefore, this court opinion that, the proposed amendment appears to be necessary for adjudicating the real controversy in between the parties and if in case the proposed amendment is not permitted it will leads to multiplicity of proceedings. If this application allowed then defendant have opportunity to filing a additional written statement and produced relevant documents and witness to prove their case.

14. On considering the facts of the this case, this court is opinion that, the proposed amendment appears to be

KAKB620005262019



necessary for adjudicating the real controversy in between the parties and if in case the proposed amendment is not permitted it will leads to multiplicity of proceedings. The proposed amendment appears to be a bonafide purpose which will assist the court in adjudicating the matter effectively. In case, this suit is disposed off without the proposed amendment then in future it will lead to complications which will result in multiplicity of proceedings. Therefore, in order to adjudicate all the real controversy in between the parties the proposed amendment is necessary.

15. No doubt, this application filed after commencement trial. But the proposed amendment is necessary to decide real controversy between the both the parties. Hence, I am of the view that the plaintiff has made out sufficient grounds and proposed amendment is necessary to adjudicate the real question in controversy between the parties. Therefore, I am of the opinion that the proposed amendment application is deserves to be allowed on cost of Rs.500/-. Hence, I answered point No. 1 in the affirmative.

16. **Point No.2:** In the light of above discussion, I

KAKB620005262019



proceed to pass the following:

ORDER

I.A.No.11 filed by plaintiff Under Order 6 rule 17 of C.P.C., is hereby allowed on cost of Rs.500/-.

The plaintiff is hereby directed to carry out the necessary amendment in the plaint and to furnish amended plaint copy.

(Dictated to the Typist directly on computer, same is typed by him, corrected by me, signed by me and then pronounced by me in the open court on this the 14th day of January, 2026)

(Kashinath V. Uppar)
Civil Judge & J.M.F.C.
Jewargi.

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