

KAKB620017832022



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 15th day of February-2025

O.S.No.136/2022

Between:

: Plaintiffs

1. Indrabai W/o Laxman Ramganvar & others.

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

V/s

: Defendants

1. Puspa W/o Laxman Ramganvar & others.

(D-4 by Sri. P.K., Advocate)

PARTIES TO I.A. NO.I

**APPLICANT/S
PLAINTIFF**

**: 1. Indrabai W/o Laxman Ramganvar &
others.
V/S**

**OPPONENT/
DEFENDANTS**

**: 1. Puspa W/o Laxman Ramganvar &
others.**

1	Provision under which the application is filed	U/o.6 Rule-17 of CPC
2	Relief sought for	Amendment of plaint.
3	The date on which the application is filed	17-01-2025
4	Number of application	I.A.No.3

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5	The date which the objection are filed by different opponents	25-01-2025
6	The date on which the order was passed on the said application	15-02-2024

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

ORDER ON IA NO.3

The plaintiff has filed this application to permit her to implead amend the plaint by adding the proposed amendment which is as hereunder:

2. The proposed amendment:

In para No.2 and Para-9 suit schedule property land Sy.No.19 measuring 02 acre 00 guntas, situated at Shakapur village, instead of Sy.No.54/Aa, measuring 02 acre 12 guntas, and Sy.No.54/E, measuring 02 acre 14 guntas.

3. The plaintiff No.1 has sworn to the affidavit and stating that, she filed the suit against defendant No.1 to 5, for partition and separate possession. Due to oversight the in the suit schedule property land bearing Sy.No.54/Aa,

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measuring 02 acre 12 guntas and Sy.No.54/E, measuring 02 acre 14 guntas, due to misconception the suit properties added. But this suit properties are the belongs to another person. The proposed amendment is the land Sy.No.19 measuring 02 acre 00 guntas, situated at Shakapur, this property belongs to the family of the plaintiff. The proposed amendment is necessary to decide the dispute between parties to the suit. Hence, plaintiff filed present application. If the present application allowed, no loss or hardship will cause to the defendants and on contrary, if the application is rejected, then the plaintiffs will be put to hardship. With these averments, the plaintiff has sought for allowing the application.

4. The counsel for defendant No.4 filed a objection to said application wherein, the plaintiff filed application U/O 6 Rule 17 with regard to amending to the plaint at para No.2 and 9. In the pleading for the amendment is not clear. As per the schedule properties shows in the separately annexed schedule "A" there are four survey numbers shown. Wherein serial number No.4 Sy.No.98/AA, shown as a 04 acre 11 guntas, dispute with regard to Sy.No.54/Aa, is only ask to change the Sy.No.19 measuring 02 acres. There is no any word use by deleting the Sy.No.54/Aa, and 54/E, instead of both Sy.No.19 measuring 02 acres. In the application of

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plaintiff there is ambiguity in para No.9. Hence, defendant No.4 prays to reject the I.A.

5. On considering the I.A.No.3 and affidavit, the points that would arise for my consideration as under:

1. Whether I.A.No.3 is filed by the plaintiff are deserve to be allowed and whether proposed amendment is necessary to adjudicate the real question of controversy in between parties ?

2. What order ?

6. Heard the arguments on interim applications.

7. My answers to the above points are as under:

Point No.1:- Affirmative.

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

REASONS

8. **Point No.1:-** This is suit filed by the plaintiffs for seeking a relief of partition and separate possession against the defendants in respect of suit schedule properties. Due to the misconception in the suit schedule property land Sy.No.54/Aa, measuring 02 acres 12 guntas,

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and Sy.No.54/E measuring 02 acre 22 guntas, plaintiff added as suit properties. But the suit properties are the not belongs to the defendants. The proposed amendment is the to add the Sy.No.19 measuring 02 acre 00 guntas, situated at Shakapur, this property is the belongs to the family of the plaintiff. Plaintiff produced the revenue records of the land Sy.No.19 measuring 02 acres 00 guntas, situated at Shakapur village, which is standing in the name defendant No.4 of plaintiff by name Ishwar S/o Madivalappa. Therefore, the proposed amendment is necessary to determine to real controversy between the parties to the suit. Hence, this court is of the opinion that, the application has to be allowed and the plaintiffs have to be permitted to amend the plaint for deleting the Sy.No.54/Aa and 54/E and include the Sy.No.19. If the present application is rejected then it will leads to multiplicity of the proceedings. Hence, it is just and necessary to allow the application and permit to the plaintiffs to amend the plaint. After carrying out the amendment the defendant is at liberty to file his written statement. More ever this case is initial stage, therefore, the objection raised by the counsel for defendant is not sustainable. With these observations this court has answered the Point No.1 in the Affirmative.

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9. **Point No.2:** In the light of above discussion, I proceed to pass the following:

ORDER

I.A. No.3 filed by the learned counsel for plaintiffs filed U/o.6 Rule-17 R/w.Sec.151 of CPC, is hereby allowed.

The learned counsel for the plaintiff permitted to carryout the amendment as sought for.

No order as to costs.

(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 15th day of February, 2025)

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

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