

IN THE COURT OF THE CIVIL JUDGE JMFC,
PONNAMPET.

PRESENT : Sri.Shrinath A, B.A.L, L.L.B.,
Civil Judge & JMFC.,
Original Suit No.57/2017

Dated this the 5th day of February 2026

Plaintiffs : Sri.K.B.Thimmaiah,
S/o: Late Belliappa,
Age: 61 years,
R/o: Balaji Village,
Mayamudi Post,
Ponnampet Nad, S.Kodagu.
(By Sri.Suresh V.S, Advocate)

-Vs-

Defendants: :1. Sri.Sanju Somaiah,
S/o: Late Subbaiah,
Age: 42 years.

2. Sri.K.D.Chengappa,
S/o: Devaiah,
Age: 30 years.
Both are residing at
Balaji Village, Mayamudi Post,
Ponnampet Nad,
South Kodagu.
(By Sri.N.P.M/B.U.P, Advocate)



PARTIES TO I.A.XIV

PLAINTIFF/ : Sri.K.B.Thimmaiah,
APPLICANT

-V/s.-

DEFENDANT/ Sri.Sanju Somaiah, and Another,
OPPONENT :

ORDERS ON I.A.NO.XIV FILED BY THE PLAINTIFF
UNDER ORDER VI RULE 17 OF CPC

The plaintiff has prayed for amendment of suit schedule road by adding with regard to where exactly the road further continues to reach the properties of plaintiff.

2. 2. In the affidavit it is said that the proposed amendment was not inserted because of previous lawyer not described the same and that it would remain in ambiguity and in his necessary for adjudication and it will not change in nature of the suit and prays to allow the application.

3. Objections filed by defendants that by proposed amendment the new road is claimed which is not in existence and in order to fill the lacuna of cross examination



this amendment is not sought which is not necessary. There is a alternative road and the pleadings in the plaint states that the road ends at the irrigation tank of the defendant no. 1 and their exist wetland of defendants and therefore there is no road in property bearing Sy. No. 42/2 and hence the amendment is a creation of new road and new litigation which is causing hardship to the defendants. Since it changes the nature of the suit and prays to dismiss the application.

4. Heard advocate for plaintiff and defendant.

5. On perusal, following points are arise for my consideration:-

1. whether amendment can be allowed when further new road is claimed in the property of the defendants which was not claimed on the date of filing of the suit.

2. What Order?



6. My answers to the aforementioned points are as under :

Point No.1	:	In the Negative,
Point No.2	:	As the final order for the following.

REASONS

7. **POINT NO.1** :- At the argument stage this application is filed. From perusal of the proposed pleadings, the plaintiff is claiming motorable road where till now he was claiming it has a pathway of 300 meters in length through the wetlands of defendants. The case is of the year 2017. The proposed amendment is claimed now and there is no due diligent in prosecuting the case. Moreover it is the clear case of the plaintiff as per pleadings that the motorable road was claimed till the irrigation tank of defendant no. 1. Know without pleading to that effect, there can be no reference of the same in the suit schedule road and it is totally a new case that has been set up at the stage



of arguments. Therefore the proposed amendment cannot be allowed, as it will cause hardship to the defendants. Hence for the above reasons point no. 1 is answered in the Negative.

8. **Point No.2**:- In view of the forgoing observations and discussions, this court proceed to pass the following :-

ORDER

The application filed by the plaintiff under order VI Rule 17 of CPC is hereby dismissed.

(Dictated to the stenographer, transcribed and computerized by him, then corrected, signed and pronounced by me in open court on this the 5th day of February 2026)

- sd -
(Shrinath A)
Civil Judge & JMFC
Ponnampet.

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