

KAKL200016122023



**IN THE COURT OF THE I ADDL., CIVIL JUDGE AND JMFC
AT BANGARPET**

:PRESENT:

SRI.CHANDRASHEKAR ALABUR,
B.A., LL.B.,

I ADDL., CIVIL JUDGE & JMFC., BANGARPET.

O.S. NO.170/2023

DATED THIS 24TH DAY OF OCTOBER 2025

PLAINTIFF/S : Varsha
(Rep. by Sri.**M.P.R.**, Advocate)

-V/S-

DEFENDANT/S: Munivenkatappa & others
(Rep. by Sri.**A.M.R.**, Advocate)

PARTIES TO I.A.NO.III

Applicant: Varsha

-V/S-

Opponent: Munivenkatappa & others

i.	Provision under which the application is filed	U/o 6 Rule 17 R/w Section 151 of CPC
ii.	Relief sought for	Permanent Injunction
iii.	The date on which the application is filed	12.07.2023
iv.	Number of the application	I.A. No.3
v.	The date on which the objection is filed by different opponents	30.08.2023
vi.	The date on which the orders were passed on the said application	24.10.2025

ORDERS ON I.A.NO.III FILED UNDER ORDER VI RULE 17
READ WITH SECTION 151 OF CPC

This is an application filed by the plaintiff under Order VI Rule 17 read with Section 151 of CPC praying to amend the plaint so as to insert an additional averment at paragraph 6(a) and to amend the prayer column seeking permanent injunction restraining the defendants from conducting the “Hosadyavara Function” every year after the Ganesha Chaturthi Festival on the first Saturday of the first week, and to amend the schedule accordingly.

2. Gist of the Plaintiff's Application and Affidavit:

The plaintiff contends that after filing of the suit and service of summons, the defendants, during the pendency of the suit, have intentionally conducted the Dodda Dyavara Function and Deepotsava in Gutthahalli Village, and that they are further intending to conduct the Hosadyavara Function every year after the Ganesha Chaturthi Festival. The plaintiff alleges that such act of the defendants, without permitting her participation, is contrary to custom and causes her irreparable hardship. Hence, she prays that the plaint be amended to include a permanent injunction against the defendants from conducting such functions every year, and to modify the schedule accordingly. Therefore prays to allow the application.

3. Objections by the Defendants:

The defendants have filed detailed objections contending that the application is not maintainable either in law or on facts. The proposed amendment will completely alter the nature and character of the suit. The relief now sought is with respect to an alleged future event, whereas the original suit

was confined to the Dodda Dyavara, Hosadyavara and Deepotsava functions scheduled between 13/05/2023 and 16/05/2023, which have already been performed. Hence, the cause of action as pleaded has ceased to exist, and therefore, the amendment would be unnecessary and infructuous. Therefore pray to dismiss the application with costs.

4. From the above pleadings the following points arise for my consideration.

1. Whether the plaintiff has made out sufficient cause to allow the proposed amendment under Order VI Rule 17 CPC?
2. Whether the proposed amendment is necessary for determining the real controversy between the parties?
3. What order ?

5. After hearing the arguments and on considering the relevant materials on record, my findings on the above points are hereunder:-

Points No.1 &2	:	In the Negative.
Point No.3	:	As per final order for the following;

REASONS

6. POINT NOS.1 & 2:- These two points are taken up together for common discussion for the purpose of avoiding repetition of facts as they are interlinked with each other. The main suit is one for permanent injunction restraining the defendants from conducting Hosadyavara, Dodda Dyavara and Deepotsava functions in Gutthahalli Village, as specifically described in the schedule as being conducted between 13/05/2023 and 16/05/2023. The cause of action for the suit, as seen from the plaint, arose on 26/04/2023, when the defendants allegedly attempted to conduct those functions despite objections from the plaintiff.

7. It is evident from the plaint schedule and the admitted position that the said religious festivals and ceremonies have already been completed long before the present application came to be filed. Once the functions are already over, the relief originally sought itself became infructuous, and therefore, the question of amending the plaint to include a prayer for future years would virtually amount to

introducing a new cause of action which is distinct and separate from the one pleaded in the original plaint.

8. The settled law under Order VI Rule 17 CPC is that amendment cannot be allowed if it changes the nature and character of the original suit or introduces a fresh cause of action. The Hon'ble Supreme Court in **Revajeetu Builders and Developers v. Narayanaswamy & Sons, (2009) 10 SCC 84**, has held that the court must see whether the proposed amendment is necessary for determining the real controversy and whether it would introduce a new cause of action or prejudice the opposite party. In the present case, the original controversy relates to one-time performance of the function in May 2023, whereas the proposed amendment seeks a perpetual injunction against annual performance of the same, thereby enlarging the scope of litigation and changing its character.

9. The plaintiff's own affidavit states that the defendants have "already conducted" the Dodda Dyavara and are "intending" to conduct the Hosadyavara every year. Such prospective apprehension cannot be the subject matter of an

amendment in a suit which has already become infructuous by lapse of time. The proper remedy, if any, would be by way of an independent fresh cause of action and not by amendment of an existing plaint.

10. Furthermore, the plaintiff's plea that the amendment is necessary to avoid multiplicity of proceedings cannot be accepted because the very festival forming the basis of the suit has already been concluded, and there is no continuing cause of action shown. Allowing such amendment would convert a time-bound injunction suit into a perpetual declaratory suit affecting the personal religious rights of the defendants, which would undoubtedly prejudice their vested rights.

11. Hence, the proposed amendment is neither necessary nor bona fide. The application is filed only after the lapse of the festival dates mentioned in the plaint, and therefore, it has become infructuous. The existing pleadings are sufficient for adjudication of the relief claimed, if any survives. **Therefore I answer point No.1 and 2 in the negative.**

12. POINT NO.3:- For the foregoing reasons I proceed to pass the following:-

ORDER

The I.A.No.3 filed by the plaintiff under Order VI Rule 17 read with Section 151 CPC is hereby dismissed.

No order as to costs.

*(Dictated to the Stenographer directly in the computer, typed by her, corrected by me, then pronounced in the open Court on this day **24TH day October 2025.**)*

**I Addl., Civil Judge and J.M.F.C.,
Bangarpet.**