

KAKL510007402020



IN THE COURT OF I ADDL. CIVIL JUDGE AND J.M.F.C.,
AT : K.G.F

Present:

Smt. Shemida.K, B.A.(Law), LL.B.,
1st Addl. Civil Judge and J.M.F.C,
KGF.

Original Suit No.266/2020

Dated this the 29th day of October, 2025

Plaintiffs : **1. Muddakka,**
W/o late Papaiah,
Aged about 85 years.
2. Amaranarayana Swamy,
S/o late Papaiah,
Aged about 63 years,
Both are R/at New Town,
Bethamangala Town and Hobli,
KGF Taluk, Kolar District.

(Rep. By Sri.B.V.V., Advo.,)

V/s

Defendants : **1.Narayanaswamy,**
S/o late Venkatamuni,
Aged about 63 years.
2.Smt. Venkatamma,
W/o late Venkatamuni,
Aged about 85 years.
3. Sarasamma,
W/o Narayanaswamy,
Aged about 55 years.

All are R/at New Town,
Bethamangala Town and Hobli,
KGF Taluk, Kolar District.

(Rep. By Sri.K.C.M, Advocate)

IA No.12

APPLICANT : Mudakka and another
(Plaintiff)
V/s

OPPONENT : Narayanaswamy and other,
(Defendants)

i. Provision under which the application is filed	Under Order 6 Rule 17 r/w Sec.151 of CPC filed by the plaintiff.
ii. Relief sought for	To amend the plaint
iii. The date on which the application is filed	19.09.2025
iv. Number of the application	IA.No.12
v. The date on which the objections are filed by different opponents	23.10.2025
vi. The date on which the orders were passed on the said application	29.10.2025

ORDERS ON I.A.No.12

The present application was filed by the plaintiff under Order 6 Rule 17 r/w Section 151 of CPC for seeking permission to amend the plaint as prayed for, in the interest of justice and equity.

2. The proposed amendment sought by the plaintiff is as follows:

In page no.1 of the plaint, in defendant no.1 cause title, to delete the father name "late Venkatamuni" and to insert in the same place as "late Chinnappa" and rest to continue.

2. In page no.5 of the plaint, in the schedule item no.1, line no.2, to delete the measurement "0-21 ½

acres" and to insert in the same place as "0.11.12.00 acres " and rest to continue.

3. In page no.6 of the plaint, in the schedule item no.2, line No.2, to delete the measurement "0-21 guntas" and to insert in the same place as "0.13.12.00 guntas" and rest to continue.

4. In page no.6 of the plaint, in the schedule item no.4, line no.2, to delete the measurement "0.12½ guntas" and to insert in the same place as "0.01.12.00 guntas" and rest to continue.

5. In page no.7 of the plaint, in the schedule item no.6, line no.2, to delete the measurement "2-12 acres" and to insert in the same place as "1.28.12.00 acres" and rest to continue.

3. In the sworn affidavit the plaintiff No.2 has stated that they have filed the present suit against the defendants for the relief of declaration of title and now the stage is arguments. Further stated that recently he come to know that due to typographical error there is some mistakes in the cause cause title regarding name of father of defendant No.1, measurements of the suit schedule property. Already he has furnished the documents as per Ex.P10, P11, P13, P15and also Ex.D25 i.e, Will dated 14.09.1989 also marked which corroborates said mistake. Hence the proposed amendment is very much required and it is bonafide one and it will not change the nature of suit nor raise fresh cause of action. Further if the present application is allowed no prejudice will be caused to the other side, if same is not allowed they will be put to irreparable loss and great hardship. Hence on all these grounds it is prayed to allow the application.

4. On the other hand, the defendants have filed objection wherein it is contended that, the present application is not maintainable either in law or on facts and denied all the averments of application. Further contended that the proposed amendment is unwarranted and not required for the adjudication of the present suit. Further contended that the present application is filed to drag on the proceedings and the said proposed amendment will change the nature of suit and introduce new case on hand. Further contended that after lapse of time the present application is filed and already the evidences of both the sides were completed and now the plaintiff has come up with the application with colourful story which is not acceptable. Further contended that in order to fill up lacuna the present application is filed and there is no sufficient cause to considered the present application. Hence on all these grounds prays to reject the application.

5. Heard both the sides and perused the documents on records.

6. Now the points that arise for my consideration are:

1) Whether the plaintiff has made out grounds to allow IA.No.12 with respect of proposed amendment, at this stage as prayed for?

2) What order?

7. My findings on the above points are as under:

Point No.1 : In the Affirmative,

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

: REASONS :

8. POINT No.1:- Perused the entire records, instant application with affidavit and objections filed by the party and also arguments canvassed by the learned advocates for the parties. Admittedly the plaintiff No.1 and 2 have filed the present suit for the relief of Declaration of title, permanent injunction and judgment and decree passed in OS.115/2020, RA.37/2014 is not binding on them and consequential reliefs. Further when the matter was stood for arguments, the present application was filed by the plaintiff No.2 and same was opposed by the defendants.

9. Before going into the merit of the application, it is appropriate to glance the brief history of the present case. The plaintiffs have filed the present suit in the year 2020 and suit summons issued to the defendants. Meantime the defendants have appeared through their counsel and strongly contesting the matter. Earlier several applications were filed and were disposed off. The evidences of plaintiff as well as defendants were concluded and now the stage is arguments. Meantime the present application was filed.

10. Further it is to be noted that the counsel for plaintiff No.2 has filed the present application under Order 6 Rule 17 of CPC which deals about amendment of pleadings. The said provision reads as follows:

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.

The scope of said provision states that, 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. Further the primary duty of the Court to decide whether such amendment is necessary to decide the real dispute between the parties or not. Only if such condition is fulfilled, the amendment is to be allowed. Further the proviso restricts the power of the Court and puts an embargo on the exercise of its jurisdiction. Further the Court's jurisdiction is now limited. Unless there is jurisdictional fact in any amendment, the Court will have no jurisdiction to allow the amendment to the plaint. In this case as stated supra the evidences of both the sides concluded.

11. Further the plaintiff No.2 also filed the said application under Sec.151 of CPC which deals about saving of inherent powers of the Court which reads as follows: "*Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be*

necessary for the ends of justice, or to prevent abuse of the process of the Court". The above said section clearly shows the discretionary power of the Court to pass appropriate order in the interest of justice if there is no provision in the CPC.

12. In the application the contention of plaintiff No.2 is that due to typographical error the name of father of defendant No.1 as well as measurement of the suit-schedule properties wrongly mentioned which he intend to rectify. Per contra the contention of the defendants is that it is filed at the belated stage and it will change the nature of the suit and introduce new case on hand. On this background I have perused the proposed amendment which clearly shows the insertion of name of father of defendant No.1 and correction of suit-schedule properties measurements. In this case there are 7 items which are in dispute and it is suit for declaration of title, hence description of suit-schedule properties must be clear and the burden is more on the plaintiffs to establish their case. Hence the proposed amendment appears to be necessary and it will helpful for the adjudication of the case.

13. Further the contention raised by the defendants is also valid regarding belated filing of present application , but if the present application is rejected the description of suit properties is not clear. Further in the objection the defendants not denied the name of father of defendant No.1 which the plaintiff intend to implead. Moreover the proposed amendment not raises fresh cause of action and not changes the nature of suit as contended by the defendants.

14. Further the Hon'ble Apex Court in ***Revajeetu Builders and Developers V/s Narayanaswamy and sons and others, reported in (2009) 10 Supreme Court Cases 84*** has summed up the factors to be taken into consideration while dealing with applications for amendments, as under:

i) whether imperative the for amendment proper adjudication of the case. sought is and effective

ii) whether the application for amendment is bona fide or a mala fide.

iii) the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money.

iv) refusing amendment would in fact lead to injustice or lead to multiple litigation.

v) whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; and

vi) as a general rule, the Court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

The above decisions clearly shows that an application under Order 6 Rule 17 calls for serious judicial exercise and it should never be undertaken in a casual manner. Hence on considering all these aspects it is appropriate to consider the request of the plaintiff. Further if really the defendants disputing the said proposed amendment then they are getting opportunity to file their additional written-statement for the same. Hence after going through the reasons assigned by the applicant, I am of the view that plaintiff No.2 has shown sufficient grounds to allow the present application. If the application is allowed, no harm or injustice will be caused to

the defendants in any way. Hence I answer **Point No.1 in the Affirmative.**

15. Point No.2: As per my discussion over Point No.1, I proceed to pass the following:

ORDER

The application filed by the plaintiff under Order 6 Rule 17 R/w Sec.151 of CPC as IA.No.12 is hereby allowed on cost of Rs.500/-.

The plaintiff is permitted to amend the plaint as sought for.

*(Dictated to the Stenographer directly on computer and revised and corrected by me then pronounced in the open court, this the **29th day of October, 2025**)*

Sd/-

(SHEMIDA.K)

**I Addl. Civil Judge & JMFC
KGF.**