

ORDER ON I.A.No.IV

1. The plaintiff has filed present application u/o VI Rule 17 of CPC seeking amendment of the plaint as detailed in application.

2. The plaintiff in the affidavit filed along with the application stated that, he has filed the present suit against the defendants seeking adverse possession in respect of the suit schedule property i.e., 3 guntas in Sy.No. 38/2. Further contended that, after institution of the suit one Ramesh S/o Late Nanjegowda and Ningamma W/o late Nanjegowda has got mutated the katha in respect of suit schedule property in their name claiming themselves as LRs of Maligemane Nanjegowda @ Thammaiah, the said persons have been impleaded as defendants in the present suit. Though the defendant No.3 and 4 are not in possession of the suit schedule property got the katha pertaining to suit schedule property in their name on 29.03.2019 illegally. The illegal mutation of katha in the name of defendant No.3 and 4 does not effect the possession of the plaintiff over the suit schedule property. Hence it is necessary to amend the said facts in the plaint. Further contended that, if the application is not allowed they would be put to irreparable hardship and injury. On the other hand the same is allowed no hardship and injury to the defendants. Hence prayed to allow the application.

3. The defendants filed objections to the application contended that, the application is not maintainable either in law or on facts. Further stated that, the contents of the

application are false. Hence prays for dismissal of the application.

4. Heard arguments.

5. The following points arise for my consideration:

Point no.1: Whether the applicant made out grounds to allow IA no.IV?

Point no.2 : What order?

6. My answer to the above points:

Point No.1: In the Affirmative

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

REASON

8. **Point No.1:** The plaintiff has filed the present suit against the defendants seeking adverse possession. The plaintiff contended that, during the pendency of the suit the defendant No.3 and 4 illegally got the katha mutated in their name. The said katha was change in the name of defendant No.3 and 4 claiming themselves legal representatives of Maligemane Nanjegowda @ Thammaiah does not effect the possession of the plaintiff over the suit schedule property.

9. It is pertinent to note that, the plaintiff claiming adverse possession over the suit schedule property. Whether the plaintiff is in possession of suit schedule property adverse to the interest of original owners is a matter of trial. The plaintiff contended that, after institution of suit the defendant No. 3 and 4 illegally got

the katha mutated in their name. In this regard the plaintiff intend to amend the plaint as detailed in the application. It is pertinent to note that the defendant No.3 and 4 are impleaded as defendants. I am of the opinion that, to determine the real question in dispute in the suit the amendment of the plaint as detailed in the application is necessary. Hence, I answer the Point No.1 in the Affirmative.

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

ORDER

I.A.No.IV filed by the plaintiff U/o 6 Rule 17 of CPC, is hereby allowed.

The plaintiff is hereby directed to carry out the amendment as detailed in the application.

To furnish amended plaint by-

**Addl. Civil Judge & JMFC.,
K.R.Pete.**