

ORDER ON IA No.5

This application is filed by the plaintiff under Order 6 Rule 17 of CPC seeking amendment of plaint to insert para No.9(a) in the plaint.

2. The plaintiff sworn to affidavit to the present application and stated that the present suit is filed for declaration and consequential relief of injunction. The defendants did not file their written statement in time. The plaintiff was examined himself as PW1 by filing affidavit in lieu of his examination in chief. Thereafter, the defendants filed their written statement along with interim application seeking permission to file written statement. The defendants in their written statement contended that the father of the plaintiff was the adopted son of Sri. Yajaman Dyavarasegowda. They also contended that the father of the plaintiff did not inherit the properties of his father Karikendegowda. They have further

contended that they are the owners in possession of suit schedule property. It is just and necessary to clarify about the alleged adoption by way of proposed amendment. The application is not belated one. The proposed amendment is required for adjudicating the points in issue. Therefore the present application is filed to permit the plaintiff to amend plaint by inserting para No.9(a) to the plaint to plead about alleged adoption of his father by Sri. Yajaman Dyavarasegowda.

3. The defendants have objection the present application and stated that the present suit is filed for declaration by claiming that the suit schedule properties are ancestral properties of the plaintiff and his family. In the plaint, it is stated that the father of the plaintiff being legal heir of his father Karikendegowda not succeeded suit schedule property. But, the father of the plaintiff was adopted son of Sri. Yajaman Dyavarasegowda. The plaintiff did not disclose the same in the plaint. But he proposed to include pleadings about the same through proposed amendment after the defendants set up their defense in their written statement. The plaintiff could have pleaded about the proposed amendment at the time of filing suit itself. Therefore the present application is not maintainable at this stage. It is filed to harass the defendants. Therefore it is prayed to reject the present application.

4. Heard and perused.

5. The point that arises for my consideration is as follows ;

Whether the plaintiff has made out sufficient grounds to permit him to amend the plaint as sought for?

6. My answer to the above point is in the **Affirmative** for the following ;

REASONS

7. The present suit is filed for declaration and permanent injunction against the defendants. In the plaint, it is pleaded that the father of the plaintiff is son of Karikendegowda. The defendants failed to file their written statement within the prescribed time. Thereafter, they filed written statement along with IA No.4 on 04.03.2025, which was allowed on costs. In the written statement the defendants contended that the father of the plaintiff is the adopted son of Sri. Yajaman Dyavarasegowda. The plaintiff through the proposed amendment intends to plead about the alleged adoption. The nature of suit will not be changed if proposed amendment is allowed. The proposed amendment is in the nature of clarifying the earlier pleadings in the plaint. Issues in this case were framed on 25.03.2025. Thereafter, the case was posted for further chief of PW1. In the mean time the present application came to be filed. Therefore, The present application for amendment needs to be allowed. But the plaintiff has not stated anything about his due diligence as required under order 6 rule

17 of CPC. Since, issues are already framed in this case, the trial has been already commenced . The plaintiff has state about his due diligence. Therefore, the present application needs to be allowed on costs. Accordingly, the above point is answered in the **“Affirmative”**. Hence, this court proceeds to pass the following:

ORDER

IA No.5 filed under Order 6 Rule 17 of CPC is hereby allowed on costs of Rs.300/-.

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

For amendment and for amended plaint call on 16.12.2025

**I-Addl. Senior Civil Judge & JMFC.,
Maddur.**