

**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE AND
JMFC, NAGAMANGALA**

Dated this 17th day of April 2026

Present: SRI. K.P. SIDDAPPAJI. B.A., L.L.B.,

I Addl. Civil Judge and JMFC.,
Nagamangala.

Original Suit No.149/2016

Plaintiff : H.D. Narasimhamurthy

- V/s -

Defendants : Papegowda and another

RANK OF THE PARTIES ON I.A.No. XIII

**Applicant/
Plaintiff**

: H.D. Narasimhamurthy

(By Sri. M.D. Advocate)

- V/s -

**Opponents/
Defendants**

: Papegowda and another

(By Sri P.C.M. Advocate)

i	Provision under which application is filed	Order 6 Rule 17 R/W/Sec. 151 of CPC
ii	Relief which sought for	Amendment of plaint
iii	The date on which the application is filed	17-03-2026
iv	Number of the application	I.A.No.XIII

v	Date on which the objection is filed	25-03-2026 and 28-03-2026
vi	Date on which the order is pronounced	17-04-2026

ORDERS ON I.A.No.XIII

The Plaintiff has filed IA.No.XIII under Order 6 Rule 17 of Code of Civil Procedure seeking permission of the Court to carry out the proposed amendment.

2. The Plaintiff sworn to an affidavit in support of the application, wherein, he has stated that, he has filed this suit against the Defendants for the relief of permanent injunction in respect of the suit schedule properties. Now the case was posted for evidence. He obtained recently some documents in respect of suit schedule property and he also engaged new counsel recently. He was not elaborately stated with regard to the title of the suit schedule property and he also intended to amend the prayer as declaration and other reliefs. Hence, with regard to title of the suit property the sentence is to be added in the beginning of the plaint para No.2 and accordingly, boundaries are to be changed as per palu parikathu. The said reasons is bona-fide one not intentional. So it is just and necessary to add the sentence and amend the boundaries otherwise his suit will be defeated by non explanation of title. If not permit

him to amend the plaint, he will be put to much hardship and great injustice, which cannot be compensated in terms of money. If permit him to amend the plaint, no harm will be caused to other side. The present amendment is necessary to adjudicate the matter and it will not change the cause of action. If not permit him to amend the plaint, multiplicity of proceedings will be arise. He has got very good case on merits. **With these averments he has sought for allowing the I.A.No.XIII.**

3. The Defendants has filed statement of objection to I.A.No.XIII, wherein, they have denied the averments of the affidavit filed in support of the application as false, frivolous and vexatious one. They have contended that, the plaintiff has filed this suit for permanent injunction in respect of the suit schedule property. After completion of evidence of plaintiff, the defendants had not tender evidence. As such, this court had decreed the suit in favour of plaintiff. The defendants being aggrieved by the said judgment and decree, had prepared an appeal before Hon'ble Senior Civil Judge, Nagamangala. After heard arguments, the Hon'ble Senior Civil Judge, Nagamangala has remanded the matter to this court by giving an opportunity to the defendants to lead evidence. After laps of 10 years from the date of filing the suit, the plaintiff has filed this application. The proposed amendment is hit by Sec.59 and 60 of

Limitation Act. The amendment application seriously suffers from laches and also barred by limitation. The proposed amendment is changed the very nature of the suit and arise new cause of action. As such, the amendment application is not maintainable and the same is liable to be dismissed. **With these reasons they sought for dismissal of the IA.No.XIII.**

4. Heard the Learned Counsels appearing for the parties and perused the materials on record.

➤ The learned counsel for plaintiff has relied upon the ratio laid down by the Hon'ble Supreme Court of India in between **Life insurance corporation of India versus Sanjeev Builders Private Limited and Anr.** reported in **2022 Live Law (SC) 729**

5. Now the following points arise for consideration of this Court are;

Point No.1: Whether the Plaintiff has made out grounds for allowing I.A.No.XIII and thereby permitting him to carry out the proposed amendment as sought for?

Point No.2 : What Order?

6. The findings of this Court on the above points are as under:

Point No.1 : In the Affirmative

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

REASONS

7. **Point No.1:** This suit is filed by the Plaintiff against the Defendants for for the relief of permanent injunction in respect of the suit schedule properties. When the matter was at the stage of the Defendants' side evidence, the present application has been filed by the plaintiff under Order 6 Rule 17 of CPC seeking permission to amend the plaint by way of inserting proposed amendment. After considering the proposed amendment it appears that, the Plaintiff want to plead that, the suit schedule property originally belonged to one Kamma W/o Singabasavegowda and her brother-in-law by name Puttaiah. The said Kamma had no male issues. She had executed registered conditional gift deed dated 28-02-1928 in favour of father and mother of the plaintiff in respect of Sy.No.42 of Chinya Village, Honakere Hobali, Nagamangala Taluk, while executing the said deed the extent mentioned as 2 acres 22 guntas in the said survey number, but available extent was 0.84.08 guntas. The father of the plaintiff by name H. Dasegowda had sold 0.03.08 guntas in favour of Kullegowda through registered sale deed dated 22-07-1940 out of 0.84.08 guntas. The said gift deed acted upon in record of right and index of land only for 2 acre 1 guntas and phoded number given as 1, accordingly the said survey number continued as 42/1 thereafter 42/1a till toady. Further, the father of the plaintiff by name H Dasegowda had two wives namely 1) Bettamma and 2) Kumbamma. The said H Dasegowda through his 1st wife Bettamma has two daughters and one son by name 1) Puttalakshamma (who is no more now), 2) Sarojamma, 3) H.D.

Narasimhamurthy i.e., plaintiff. The said H. Dasegowda through his 2nd wife Hombalamma has one daughter and one son by name 1) Sheelavathi (who is no more now) and 2) D. Ramachandra i.e., vendor of the defendant No.1. The sons and daughter of H. Dasegowda were partitioned the foresaid property and other properties through unregistered palu parikath dated 30-06-1987. As such, as per the said palu parikath in Sy.No.42/1 to an extent of 60 guntas allotted to the share of plaintiff towards northern side and 19 guntas allotted to the said Puttalakshamma out of 60 guntas in the share of plaintiff, till her demise, in southern side. The remaining 22 guntas allotted to the said D. Ramachandra. The said palu parikath was acted upon in M.R.No.2/97-98 and M.R.No.23/87-88. The said Puttalakshamma was died on 05-11-2012, as such, the plaintiff is an absolute owner for 60 guntas in suit schedule property. Such being the case, the said D.Ramachandra by creating mutation in his name more than share allotted to him in the said palu parikath, sold to an extent of 41 guntas on 15-07-2002. As such, the plaintiff is intended to amend the plaint by way insert the aforesaid facts after the 2nd paragraph of the plaint. And also intended to amend the prayer column by adding relief of declaration for declaring that, he is the absolute owner of the land to an extent of 60 guntas in the suit schedule property and for declaring that the sale deed dated 15-07-2008 is not binding on the plaintiff and for mandatory injunction to direct the revenue authorities to correct measurement as per palu parikath.

8. Admittedly, the defendant No.1 was purchased the land to an extent of 41 guntas in Sy.No.42/1 from the aforesaid D. Ramachandra through registered sale deed dated 15-07-2002. The defendants in their statement of objection contended that, the plaintiff has filed this suit for permanent injunction in respect of suit schedule property. After completion of evidence of plaintiff, the defendants had not tender evidence. As such, this court had decreed the suit in favour of plaintiff. Being aggrieved by the said judgment and decree, the defendants had prepared an appeal before Hon'ble Senior Civil Judge, Nagamangala. After heard arguments, the Hon'ble Senior Civil Judge, Nagamangala has remanded the matter to this court by giving an opportunity to the defendants to lead evidence. After laps of 10 years from the date of filing the suit, the plaintiff has filed this application. The proposed amendment is hit by Sec.59 and 60 of Limitation Act. The amendment application seriously suffers from laches and also barred by limitation. The proposed amendment is changed the very nature of the suit and arise new cause of action. As such, the amendment application is not maintainable and the same is liable to be dismissed.

9. On perusal of materials on record, this court is opinion that, as per Order 6 Rule 17 of the Civil Procedure Code, if it is just and necessary to determine the

controversy between the parties, this Court has empowered to allow the party to amend the pleadings at any stage of the suit. Though the proviso of Order 6 rule 17 of CPC put up restriction for carrying out the amendment after commencement of the trial, but in order to adjudicate the real controversy between the parties, then the amendment sought by the Plaintiff can be allowed. Though the matter is reached to the stage of Defendant's side evidence, but that is not the sole ground to reject the application. After perused the proposed amendment this court is of opinion that, to determine the controversy between the parties to the suit and in order to avoid multiplicity of proceedings, the proposed amendment is very necessary in this case. If the plaintiff is permitted to amend no prejudice or hardship will be caused to the plaintiff. The question of limitation is a matter of trial, at this stage it can not be considered that, whether the proposed amendment is barred by limitation. The burden of proof always lies on the plaintiff to prove that, whether he is the absolute owner of the land to an extent of 60 guntas of suit schedule property and the sale deed dated 15-07-2002 is not binding on him. If the present application is rejected, then in turn it will lead to multiplicity of proceedings. The delay in filing the present application may be compensated to the Defendants by way of awarding cost. More over Defendants are at liberty to file additional written statement. The decision of the Hon'ble Supreme Court of India in **Life insurance corporation of India versus Sanjeev Builders Private Limited and Anr.** reported in **2022 Live Law (SC) 729** is applicable to the present case. Hence, to meet the ends of justice, this Court is of the opinion that the application has

to be allowed. **With these observations, this Court has answered Point No.1 in the Affirmative.**

10. **Point No.2:** For the aforesaid discussion on Point No.1, this Court proceeds to pass the following;

ORDER

I.A.No.XIII filed by the Plaintiff under Order 6 Rule 17 of Civil Procedure Code is hereby allowed on cost of Rs. 500/-

Plaintiff is permitted to carry out the amendment as sought for within next date of hearing.

[Dictated to the stenographer through on-line computer, typed by him, corrected and then pronounced by me in the open court on this day of 17th April, 2026]

(K.P. SIDDAPPAJI)
I Addl. Civil Judge and JMFC,
Nagamangala.