

**IN THE COURT OF THE PRL. SENIOR CIVIL
JUDGE AND JMFC AT PANDAVAPURA**

Dated this 20th day of February 2026

PRESENT :

SRI. R.MAHESHA. B.A.L, LL.B.
Prl. Senior Civil Judge & JMFC,
Pandavapura.

O.S.No.16/2021

PLAINTIFF : Chikkadevamma - Dead by Lrs;

V/s

DEFENDANTS : Chennamma & others

PARTIES IN I.A.XII

APPLICANT : Lrs of Chikkadevamma ... Plaintiffs

V/s

OPPONENTS : Chennamma & others ... Defendants

Provision under which the application is filed	U/O 6 Rule 17 r/w 151 of CPC
Relief sought for	To implead the item No.16 to 18 in suit schedule properties in the plaint
The date on which the application is filed	23.08.2025

Number of the application	1
The date on which the objections are filed by different opponents	25.09.2025
The date on which the orders were passed on the said application	20.02.2026

ORDERS ON I.A.XII FILED BY THE PLAINTIFF UNDER ORDER 6 RULE 17 R/W SECTION 151 OF CPC

The plaintiff have filed I.A. No. XII under Order VI Rule 17 R/w Section 151 of the Code of Civil Procedure seeking an order to amend the plaint as prayed.

2. In support of I.A., one Boregowda S/o Halegowda @ Chikkonu has filed his affidavit. He sworn in the said affidavit that, the present suit filed by his mother Smt. Chikkadevamma for partition and other consequential relief against defendants in respect of suit schedule properties. During pendency of this suit his mother Chikkadevamma died, he himself, his brothers and his father came on record as legal heirs of deceased Chikkadevamma. Further he sworn that, in order to avoid repetition of facts kindly read plaint averments part and parcel of this affidavit. Further he sworn that, while filing of suit some property documents are not available recently they got some documents pertains to their family properties. The said property now stood in the name of defendant No.2 and 3. The said properties are ancestral and joint family properties of their mother. Therefore he requested to permit them to include said properties by condone delay. If this application is allowed no harm and injury would cause to other side. On the other hand if application

is not allowed, it would cause great loss and irreparable injury to plaintiff. Therefore they prayed for consider present application in the interest of justice and equity.

3. The learned counsel for defendants have filed objections to I.A. XII praying to dismiss I.A. XII. The learned counsel for the defendants have specifically contended that, the application filed by plaintiff Lrs. i.e. I.A No. XII is not maintainable either in law or in facts, same is liable to be dismissed in limine. Further they specifically contended in their objections that, the proposed amendment act by plaintiff Lrs. is against to the plaint averments. Further they contended in their objections that, since 2005 during life time of original propositor Mayigowda, the family properties of defendants are partitioned. The present application filed with an malafide intention to include after commencement of trial. The present application filed just to cause delay of present proceedings. The present amendment is not necessary to effective adjudication of dispute between parties. The application and affidavit averments are against to the principle of order 6 Rule 17 of CPC. Therefore they prayed for dismissal of application with exemplary cost.

4. Heard the learned Counsels for the plaintiff Lrs. and defendants on I.A. No. XII Perused the materials available on record.

5. The following point that has been arisen for my consideration;

“Whether the plaintiff Lrs. have made out sufficient grounds to permit them to amend the plaint as prayed?
If so, what order?”

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

REASONS

7. The present suit filed by One Smt. Chikkadevamma against the defendants for partition and separate possession of her 7/12th share in the suit schedule properties by metes and bounds, mesne profits and cost of the suit. During pending proceedings, original plaintiff Chikkadevamma died and her legal heirs were came on record. The present application filed to include 3 properties by amend plaint schedule. The trial of the suit is already commenced and after completion of cross-examination of PW1, the plaintiff Lrs. Hhve sought to amend plaint by include 3 schedule properties contending that, the said properties are ancestral and joint family properties of original deceased plaintiff Smt. Late Chikkadevamma. It is pertinent to note that, during course of cross-examination PW1. PW1 clearly admitted to note that and in his cross-examination, the defendants have confronted Ex.D1 i.e. Registered Partition deed dated 28.12.2001. The relevant portion of cross-examination extracted below;

“ ಮಾಯೀಗೌಡರಿಗೆ ಸೇರಿದ್ದ ಎಲ್ಲಾ ಆಸ್ತಿಗಳನ್ನು 2001 ರಲ್ಲಿ ಅವರು ಮತ್ತು ಅವರ ಮಕ್ಕಳುಗಳು ಸೇರಿ ವಿಭಾಗ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ದಿನಾಂಕ 28.12.2001 ರ ನೋಂದಾಯಿತ ವಿಭಾಗ ಪತ್ರವನ್ನು ಸಾಕ್ಷಿಯು ನೋಡಿ ಒಪ್ಪಿಕೊಂಡಿದ್ದು ಅದನ್ನು ನಿಡಿ.1 ಎಂದು ಗುರುತಿಸಿಕೊಳ್ಳಲಾಯಿತು. ನಿಡಿ.1 ರಂತೆ ಮಾಯೀಗೌಡರ ಮಕ್ಕಳುಗಳು ಸ್ವಾಧೀನ ಇದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ನೀವು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಲ್ಲಿಸಿರುವ ಪಹಣಿಗಳು ನಿಡಿ.1 ರ ಆಧಾರದ ಮೇಲೆ ಬದಲಾವಣೆ ಆಗಿದೆ ಎಂದರೆ ಸರಿ. ನಿಡಿ.1 ಆದ ನಂತರ 3 ನೇ ಪ್ರತಿವಾದಿ ದಾವಾ ಷೆಡ್ಯೂಲ್ ಐಟಂ ನಂ. 8 ರ ಆಸ್ತಿಯನ್ನು ಸ್ವಂತವಾಗಿ ಖರೀದಿಸಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ ”.

8. So from the above testimony of PW.1 clearly demonstrate facts before this court that, there is a partition taken place between plaintiff Lrs. and defendants family as per Ex.D1. The present suit filed by original

deceased plaintiff contending that, she being daughter of first wife of original propositor Mayigowda and she being first wife daughter of one Mayamma W/o late Mayigowda. The defendants are sons and daughters of second wife of Late Mayigowda i.e. one Jayamma. On perusal of Ex.D1 it indicates that, on 28.12.2001 the original propositor Mayigowda and his male children one Mayanna and Shivanna have partitioned their family properties as 'A' to 'C' schedule properties, accordingly, partition taken place in their family. Admittedly, the female daughters of first wife and second wife have not parties to the said Ex.D1. They are not signatories to Ex.D1. But during life time of Mayigowda, Mayigowda and his sons have partitioned their family properties as per Ex.D1. On the basis of Ex.D1 revenue records have changed into the name of Mayigowda, Mayanna and Shivanna. Further it is relevant to note that, in view of land mark judgment passed by Hon'ble Apex Court in case between Vineetha Sharma V/s Rakesh Sharma, **"which clearly dealt with equal property rights for daughters under the Hindu Succession Amendment Act, 2005, the date 20.12.2004 (December 20th 2004) is the crucial cut-off date for determining the validity of past property partition. Here is the significance of this date"**.

1. Protection of past settlements:

The court held that, **"while daughters have equal co-parcenary rights by birth (retrospective effect), this right cannot be used to re-open or invalidate any partition or alienation of property that was formally concluded before December 20, 2004."**

2. Definition of Partition:

For a partition to be considered valid and protected before this date, it must have been done through a registered deed or a court decree.

3. The 2004 bill context:

December 20, 2004, is when the Hindu Succession (Amendment bill) 2004 was introduced in the Rajyasabha. The court used this date to draw a line ensuring that settled, bonafide property arrangements made before the law was formally proposed or not disrupted.

4. Oral partition:

The Hon'ble Apex Court clarified that, **“oral partitions or unregistered partitions made before this date, will not be recognized unless they are supported by clear, documented evidence. So, in view of above judgment, Hon'ble Apex Court clearly held that, any partition, sale, or testamentary disposition of ancestral property legally completed before December 20, 2004 remains valid and cannot be challenged by a daughter claiming her rights under the 2005 amendment.”**

9. So, in this background, this court meticulously perused I.A. affidavit averments and objections raised by defendants, it clearly establishes that, PW1 himself clearly admitted in his cross-examination, there is a registered partition effected between family members on 28.12.2001 which is marked through PW1 as Ex.D1. So, partition taken place between family of Mayigowda S/o Mayigowda and his children on 28.12.2001. The present suit filed for partition and other consequential relief. Admittedly the plaintiffs have not include the proposed amendment schedule properties while filing of suit. Now, they contended the said documents are not available while filing of this suit and now sought permission of this court to include said properties by amending plaint. Already trial commenced and counsel for defendants fully conducted cross-examination of PW1 and confronted Ex.D1 through PW1 on 23.11.2025. After conclude cross-examination of PW1 by defendants

counsel, the present application preferred to include some of properties by amending plaint. In view of the above principle of law, the present suit itself is not maintainable. The daughters have no right to question Ex.D1, because the said Ex.D1 came into existence on 28.12.2001. It is settled principle of law u/o. 6 Rule 17 CPC, courts have discretionary power to allow amendment of pleadings (plaint or written statement) at any stage of proceedings to determine the real controversy, provided it does not fundamentally change the case's nature, cause injustice or breach limitation rules. Further it is relevant to note that, in view of amendment to CPC in the year 2002, amendment can be allowed at any stage, but a strict proviso added in 2002 prohibits amendments after the trial commences unless the court finds that, the party could not have raised the matter earlier despite 'due diligence'. The main purpose of amendment is to settle the real issues in dispute, prevent multiplicity of proceedings, and correct genuine mistakes. The amendment must be made in good faith. Malafide applications or those intended to delay proceedings are generally rejected. In the instant case, the due diligence was not stated by plaintiffs in their affidavit averments. The application filed just delay the proceedings of this case in view of documents marked through PW1. In view of principle of law laid down by Hon'ble Apex Court in Vineetha Sharma case, **"the present suit is itself is not maintainable. The crucial cut-off date i.e., 20.12.2004 fixed by the Hon'ble Apex Court, the daughters have equal rights by birth, this right cannot be used to re-open or invalidate any partition or alienation of property that was formally concluded before December 20, 2004"**. For the purpose of definition of partition, it must have been done through a registered – deed or a court decree. In the instant case, Ex.D1 was a registered document, partition effected between Mayigowda and his children on 28.12.2001. So, this is a earlier document

to 20.12.2004. Therefore, plaintiffs have not right to question Ex.D1 by filing of partition suit. The interim application filed after commencement of trial for amendment of plaint is also not maintainable. From this court view, the plaintiffs have failed to made out good grounds to consider present application at this stage. For the above reasons and discussions, the above point answered in the **Negative** and I proceed to pass the following ;

ORDER

**I.A.No.XII filed by plaintiffs U/o 6 Rule 17 r/w
151 of CPC is hereby rejected.**

Accordingly, this I.A. is disposed of.

(Dictated to the Stenographer through online computer, typed by her, printout taken, corrected and the same is pronounced by me in the open court on **20.02.2026**)

(R.MAHESHA)
Prl. Senior Civil Judge & JMFC,
Pandavapura.

Order pronounced in open court
(vide separate order)

ORDER

I.A.No.XII filed by plaintiffs U/o 6 Rule 17 r/w 151
of CPC is hereby rejected.

Accordingly, this I.A. is disposed of.

Prl. Sr. Civil Judge & JMFC,
Pandavapura.