

KAMS710002022016



IN THE COURT OF I ADDITIONAL CIVIL JUDGE AND
JMFC AT T.NARASIPURA

Dated this the 18th day of November 2025

Present: **Smt. Niveditha N., B.A.L., LL.B, LL.M.,**
I Additional Civil Judge & JMFC., T.Narasipura.

O.S./36/2016

Applicant: S.Ningappa & Another
..... plaintiffs

V/s

Opponents: Siddegowda and Others
..... defendants

i.	Provision under which the application is filed	Order 6 Rule 17 R/w 151 of CPC
ii.	Relief sought for	Amendment of plaint
iii.	The date on which the application is filed	12/08/2024
iv.	Number of the application	No.10

V.	The date on which the objections are filed by different opponents	02/09/2024
vi.	The date on which the orders were passed on the said application	18/11/2025

**Order on IA No.10 filed under order VI Rule 17 R/w 151 of
CPC**

1. The plaintiff No.1 has filed this application seeking to permit him to amend the plaint schedule as mentioned hereunder:

Amendment sought for

1) To insert the measurement and boundaries of the Galli in the first time of the schedule after the words “houses of the plaintiffs and defendants” **“measuring east to west 6 feet and north to south 70 feet bounded on East: House of plaintiffs, West: House of defendants, North: Channel Road, South: Road”.**

2) to insert the words in the 2nd prayer Column b. **“and stair case”** after the words “water Tap”.

2. In the accompanying affidavit, the plaintiff No.1 has stated that the description of the galli existed between the houses of the plaintiff and defendants is not mentioned in the schedule to the plaint by over sight. The Trial Court was pleased to pass interim temporary injunction against the defendants and restrained them not put up any construction over the suit schedule galli. Inspite of that the defendants by violating the order of temporary injunction, illegally put up a staircase towards southern side of galli about 3 feet width and 7 feet height. Therefore, the complete description of the galli is necessary to prove the subsequent event and illegal construction and obstruction created by the defendants. The proposed amendment is necessary for adjudication of the case and to determine the dispute between the parties. It does not change the nature of suit or cause of action. It is necessary to avoid multiplicity of proceedings. Hence, prays to allow the application.

3. Per contra, the defendant No.1 has filed objections to the above application and contended that the application filed by the plaintiff No.1 is not maintainable either in law or on facts of the case. When the matter is posted for judgment, the plaintiff No.1 has come up with this application, hence

the same is not maintainable. As the plaintiffs have no right over the suit schedule property, in the plaint schedule, they have not included the galli existed in between the houses of plaintiffs and defendants. In Ex.P1, D1 and D3 there is no mention of existence of galli. The plaintiffs without having any right over the suit schedule property, only to grab the property of the defendants, they have filed the present suit. The proposed amendment will change the cause of action. Hence, prays to dismiss the application with exemplary cost.

4. Heard the argument of counsel for both parties.

5. The following points are arise for my consideration:

1) Whether the proposed amendment is necessary for determining the real question in controversy between the parties?

2. What Order?

6. Perused the documents available on record.

7. My answer to 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: The plaintiffs have filed the suit seeking for the relief of permanent and mandatory injunction in respect of the suit schedule property. The defendants have filed the written statement by denying the claim of the plaintiffs. When the matter is posted for arguments on main matter, the plaintiff No.1 has filed the present application. The defendants have filed objections.

9. In the affidavit, the plaintiff No.1 has stated that the description of galli is not mentioned in the schedule to the plaint by over sight. Therefore, the complete description of the galli is necessary to prove the subsequent event in the case. The defendants have denied the above application and have contended that the plaintiffs have no right over galli and in Ex.P1 there is not recitals about the said galli. The father of defendant No.1 was left the space for galli. In order to determine the dispute in the case, the above amendment is not necessary.

10. On perusal of the materials available on record it discloses that the plaintiffs have filed the suit for the relief of permanent injunction to restrain the defendants from

putting up illegal construction by encroaching the galli and also mandatory injunction to remove the obstruction i.e. water tap over galli in between the house of plaintiffs and defendants. Though the plaintiff has mentioned the galli in the plaint averments and also in the plaint prayer and in the schedule, but has not mentioned the description of galli in the schedule. Therefore, the description of the galli in the schedule is necessary in order to adjudicate the matter on merits. Though the application is filed at belated stage, but the Hon'ble Supreme Court in number of cases held that in order to put an end to the litigation, though the application was filed at belated stage, by imposing cost, the application may be allowed. Therefore, to put an end to the litigation and to avoid multiplicity of proceedings, it is necessary to allow the above application. If the application is allowed, the defendants have got an opportunity to file additional written statement.

Order 6 Rule 17 of CPC 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”

10. In view of the above provision, the amendment of the pleadings after commencement of evidence of the parties, cannot be permitted without due delinquency. But in the present case, the amendment sought in the application is subsequent events.

11. Hence, in order to avoid multiplicity of proceedings, it is just and necessary to allow the application. **Hence, this court proceeds to answer Point No.1 in the Affirmative.**

12. Point No.2: In view of the answer and reasons stated in point No.1, this Court proceed to pass the following;

ORDER

IA No.10 filed by plaintiff No.1 under order 6 Rule 17 R/w 151 of C.P.C is hereby allowed on cost of Rs.2,000/- and

thereby permitted the plaintiff No.1 to amend the plaint and to file amended plaint.

[Dictated to the Stenographer, transcribed by her and corrected by me and pronounced in the Open Court on 18th day of November 2025]

**I Addl.Civil Judge & JMFC.,
T.Narasipura.**

(Order pronounced in open court vide separate order)

ORDER

IA No.10 filed by plaintiff No.1 under order 6 Rule 17 R/w 151 of C.P.C is hereby allowed on cost of Rs.2,000/- and thereby permitted the plaintiff No.1 to amend the plaint and to file amended plaint.

**I Addl.Civil Judge & JMFC.,
T.Narasipura.**