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**IN THE COURT OF ADDL. CIVIL JUDGE & JMFC, HUNSUR**

**Dated this the 05<sup>th</sup> day of June, 2026**

**:Present:**

**Smt. Namrata S Hosmath, B.A., LL.B.,  
Addl. Civil Judge & JMFC,  
Hunsur.**

**O.S.No.116/2011**

<b><u>PLAINTIFF:</u></b>	:	Devamma & others
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**// Vs //**

<b><u>DEFENDANT:</u></b>	:	Siddamma & others
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**PARTIES TO I.A. NO.XVI**

<b>APPLICANT</b>	:	Devamma & others ..... Plaintiffs
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**V/s**

<b>OPPONENT</b>	:	Siddamma & others ..... Defendants
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i	Provision under which the application is filed	U/o VI Rule 17 R/w Sec. 151 of CPC
ii	Relief Sought for	To amend the plaint
iii	The date on which the application is filed	29.01.2026

iv	Number of the application	XVI
v	The date on which the objection is filed by opponent	24.02.2026
vi	The date on which the order was passed on the said application	05.06.2026

### **ORDERS ON I.A. NO.XVI**

The plaintiff has filed the present Interlocutory Application, namely I.A. No. XVI, under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment of the plaint. The plaintiff seeks to insert Paragraph No. 3(a) after Paragraph No. 3 and to incorporate an additional prayer in the prayer column of the plaint, which reads as follows:

***“ Declare that the sale deed executed by the deceased 1<sup>st</sup> defendant Siddamma and her deceased husband Dyavashetty dated 03.01.2008 is not binding on the plaintiff and direct the defendants to execute the rectification sale deed.”***

2. In the affidavit filed in support of the application, it is averred that the suit has been instituted seeking the reliefs of declaration and permanent injunction. It is further averred that, while preparing for final arguments, the learned counsel for the plaintiff noticed the necessity of incorporating the proposed amendment. It is contended that the proposed amendment is essential for the effective and complete adjudication of the real

controversy involved in the suit. Hence, the plaintiff has sought permission to amend the plaint as prayed for.

3. Per contra, the defendant has filed objections opposing the application. It is contended that the application is not maintainable either in law or on facts. It is further contended that the amendment has been sought at a highly belated stage, when the matter is posted for arguments, and that the same is a deliberate attempt to protract and delay the proceedings. It is also contended that the present application has been filed only to harass the defendant and that the proposed amendment is devoid of merit. On these grounds, the defendant has prayed for dismissal of the application.

4. Heard the learned counsel for the respective parties and perused the materials available on record.

5. The points that arise for consideration are:-

- 1) Whether the plaintiff has made out sufficient grounds to allow the amendment as sought for the effective adjudication of the matter in dispute?
- 2) What order?

6. My findings on the above points are as under:-

**Point No.1 : In the Party Affirmative**

**Point No.2 : As per final order**

**for the following**

## **REASONS**

7. **POINT NO.1:-** The plaintiff has sought amendment of the plaint by incorporating an additional paragraph and an additional prayer challenging the sale deed dated 03.01.2008 and seeking a consequential direction to the defendants to execute a rectification sale deed. The suit is one for declaration and permanent injunction. The plaintiff has candidly admitted that the suit has reached the stage of final arguments, which is an advanced stage of the proceedings.

8. At this stage, the proviso to Order VI Rule 17 of the Code of Civil Procedure assumes significance. The proviso mandates that no application for amendment shall be allowed after the commencement of trial unless the Court is satisfied that, despite exercising due diligence, the party could not have raised the matter before the commencement of trial. In the present case, the plaintiff has not furnished any satisfactory explanation to demonstrate that, despite due diligence, the proposed amendment could not have been sought at an earlier stage.

9. Since the present lis centers around the application under Order VI Rule 17 of the Code of Civil Procedure, it is apposite to refer to the said provision, which is extracted herein below:

**Order 6 Rule 17 of CPC;**

**•Amendment to Pleading ⇒**

*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.*

10. On perusal of the plaint and the proposed amendment, it is evident that the plaintiff had originally instituted the suit seeking the reliefs of declaration and permanent injunction. The facts sought to be incorporated by way of proposed Paragraph No. 3(a) are substantially traceable to the averments already contained in the plaint. The proposed paragraph merely elaborates and clarifies the existing pleadings and does not introduce any new cause of action. Therefore, permitting the insertion of the proposed paragraph would not cause any prejudice or hardship to the defendants.

11. However, the position is entirely different insofar as the proposed amendment relating to the prayer clause is concerned. By way of the proposed amendment, the plaintiff seeks a declaration that the sale deed dated 03.01.2008 executed by the deceased Siddamma and her husband Dyavashetty is not binding on the plaintiff and also seeks a direction for execution of a rectification sale deed. Admittedly, the plaintiff was aware of the existence of the

said sale deed at the time of institution of the suit. Despite such knowledge, no relief challenging the sale deed was sought in the original plaint. The present application came to be filed only on 29.01.2026, nearly eighteen years after the execution of the sale deed and long after the commencement of trial.

12. Under Article 58 of the Limitation Act, 1963, a suit seeking declaratory relief is required to be instituted within three years from the date on which the right to sue first accrues. The relief now sought to be introduced by way of amendment is, therefore, prima facie barred by limitation. It is a settled principle of law that a time-barred relief cannot ordinarily be permitted to be introduced through an amendment of pleadings.

13. Further, the plaintiff has already pleaded in the original plaint that he had knowledge of the sale deed and that the property stood in the name of defendant No. 7. Despite such pleadings, the plaintiff consciously omitted to seek any declaration regarding the validity or binding nature of the sale deed. The present attempt to introduce such a substantive relief at the stage of final arguments.

14. Moreover, permitting the proposed amendment to the prayer clause at this belated stage would seriously prejudice the defendants, as it would necessitate reopening of the evidence, affording fresh opportunities to the parties to adduce evidence, and consequently prolonging the proceedings which have already reached the stage of final arguments.

15. The legal position is well settled by the decisions of the Hon'ble High Court of Karnataka in **Guruprasad v. Venkata Rao and Others**, ILR 2000 Kar. 4550, and the Hon'ble Supreme Court in **Mashyak Grihnirman Sahakari Sanstha Maryadit v. Usman Habib Dhuka and Others**, AIR 2013 SC 3188, and **T.N. Alloy Foundry Co. Ltd. v. T.N. Electricity Board**, (2004) 3 SCC 392, wherein it has been held that a relief which is barred by limitation cannot ordinarily be permitted to be introduced by way of amendment.

16. Applying the aforesaid principles to the facts of the present case, this Court is of the considered opinion that the proposed amendment seeking insertion of an additional prayer challenging the sale deed dated 03.01.2008 and seeking execution of a rectification sale deed is barred by limitation and therefore cannot be permitted. However, insofar as the proposed insertion of Paragraph No. 3(a) is concerned, the same merely elaborates the existing pleadings and neither changes the nature of the suit nor introduces a new cause of action. Accordingly, the amendment relating to insertion of Paragraph No. 3(a) deserves to be allowed.

17. It is also pertinent to note that the plaintiff is not an executant or party to the sale deed dated 03.01.2008. In such circumstances, the question of directing execution of a rectification sale deed at the instance of the plaintiff does not arise for consideration in the present proceedings. Accordingly, this Court answers **Point No.1 in the Partly Affirmative.**

18. **Point No.2:** In view of aforesaid discussions, this Court proceed to pass the following;

**ORDER**

The I.A.No.XVI filed U/o 6 Rule 17 of CPC filed by the plaintiff is hereby allowed in part with cost of Rs.500/-.

The plaintiff is permitted to carry out the proposed amendment only insofar as it relates to the insertion of additional Paragraph No. 3(a) in the plaint.

Insofar as the proposed amendment relating to the prayer column is concerned, the said prayer is rejected. Accordingly, I.A.No.XVI stands rejected to that extent.

(Dictated to the Stenographer on Computer, typed by her on Computer, revised, corrected and then pronounced by me in the open Court on this day, the **05<sup>th</sup> day of June 2026**)

**(NAMRATA S HOSMATH)**  
I Addl. Civil Judge & JMFC.,  
Hunsur.