

**ORDER ON I.A. NO.6 FILED U/O 6 R-17 OF C.P.C.**

This application being presented through the applicant/plaintiff appearing before this court. Further the said applicant by presenting this application it was requested pleased and soliciting to amend the pleadings of the plaint.

**2.** Further an affidavit has also been filed along with the application and to support the said application an affidavit is also moved and in the said affidavit it has been asserted, assigned stated and it has been submitted by the applicant that, the mother of the plaintiff presented and instituted the present suit against the defendants for avowing, declaring and to announce the plaintiffs are the owners of the schedule property and to obtain an injunction thereto in respect of the plaint 'B' schedule property. Further according to the applicant, the narration and craves that are devolved and asserted in the affidavit that, the matter was posted for argument, the defendant No.1 preferred his statement subsequently on 17.11.2023, he is disputed the boundaries and the extent of the survey numbers. But no relief was sought against the said defendant. Further the suit in O.S. No.92/2013 which was presented, instilled and instituted previously has already been decreed. Further as per the commissioner report, the plaintiffs and the defendants compromised the matter. Subsequently, in order to rectify,

correct and to change the survey numbers as per the sketch submitted by the commissioner, the present suit is filed.

**3.** Further according to the applicant/plaintiff, the defendant No.1 without any relief against him, he has disputed the boundaries and survey numbers in his statement. This court has framed the additional issues and the plaintiff has already adduced his evidence and the evidence of the defendant as taken as nil. When such being the time, event, scenario and juncture, the statement of the defendant No.1 has been submitted and taken on record. The plaintiff ought to have added one more relief claim and prayer in the column provided for therein in the plaint. The said technical issue is very necessary important and essential for the purpose of deciding the actual matrices of the suit. Further in order to bring home, pellucid and to defrost the gloom and to decide true, correct ambiguities and to settle all the disputes and controversies between the parties, the said alterations in the form of amendments is necessary and essential.

**4.** Further according to the applicant/plaintiff herein in order to avoid the cruck, crypt, multiplicity and confusion in further proceedings of the suit, the said application is very essential need of the our and it is very much required to

insert, add, incorporate and to mention the amendments which was placed and submitted before this court through presenting the application. Hence, prays for allowing the application and permission to insert the pleadings as adverted and submitted in the application.

**5.** However on the contrary retorting, challenging, antagonizing, repelling and opposing the application of the applicant/plaintiff herein, the defendant submitted, placed and presented his objections in the form of defence and contra pleadings. Wherein the said contra oppose and confronting the said application, in the statement of defence, the defendants would state present and placed before this court that, the application for amendment rectification and changes to the plaint is belated, delayed and it will set up introduced and initiate new facts into the case and it will change modify and transforms the very nature and original characteristics of the suit, the amendment requested appealed for rectification and amendment is contrary against and in complete derogation, retaliation and retreating the report of the surveyor and the boundaries furnished in the sale deed. According to the opponent, this application is brought on record and placed before this court only for the purpose of extend, protract, propel and to expand the final adjudication of the suit. Hence,

it was requested by the defendant to dismiss and reject the application.

6. Heard and perused.

7. The following points arise for this court's consideration.

**1) Whether applicant has made out sufficient grounds for allowing the present application?**

**2) What Order?**

8. This court findings on the above points for consideration are as under:

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

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

**REASONS**

**9. POINT NO.1:**

Upon hearing the arguments and verifying the pleadings of the application and the objection portion, the plaintiffs mother deceased Jayamma instituted and presented the suit, and the suit has been lit before this court and in the said suit the plaintiffs mother has requested for avowing, proclaiming, declaring and claiming the relief of ownership, declaration of title and the other ancillary and incidental, subsidiary relief of injunction. According to the applicant/plaintiff the person who moved this application, the reasons, grounds and the

pleadings that were adduced, presented, canvassed and assigned before this court is, the plaintiff would have registered, inserted and added the relief which was craved and appealed for through the application during institution, presentation and inception of the very suit itself. However, due to the technical carp issues mechanism and flaws, the said relief has not been intercalated and incorporated in the suit while presentation of the suit.

**10.** Further as per the applicant/plaintiff, the said amendment rectification and changes which was sought and claimed for is very necessary, essential, prerequisite, mandate and it is very important to decide the suit on merit effectively to settle and find out the real conflicts, controversies ambiguities and disputes between the parties. Further it is according to the applicant, the amendment which was called for is place and it will play very pivotal, prominent, notable, significant and vital role and it will play more significant pedestal and high-rank in deciding the real conflicts, ambiguities and the differences between the parties.

**11.** Accordingly it is as per the applicant, in order to avoid and to deject, heaviness, multiplicity, complexity, perplexity of the proceedings, it is very apt, just and essential for changes in the plaint which was requested and appealed for. Further

wherein according to the defendants, the said rectification, alterations and amendment is contrary to the norms and it will completely change, modifies and transforms the original nature, characteristics and views of the suit which was stands earlier. According to the opponent/defendants, the said rectification, alterations and amendment do not necessary and essential for deciding and determining the real conflicts, ambiguities and the issues between the parties.

**12.** At this juncture on vetting the provision of order 6 rule 17 of C.P.C. as envisaged under the code is to facilitate and enable the parties to the suit to amend their pleadings. Further whenever any such applications are moved for seeking amendment of their respective pleadings, the court may allow either party to amend their pleadings in such a manner and on such terms that all such amendments if they are necessary for the purpose of determining and settling the real controversies between the parties. However this court may allow and consider those applications which are filed for amendment at any stage of the proceedings.

**13.** Moreover by simplicitor permitting the applicant for amendment of their pleadings that itself does not convey or create any right on the persons in respect of pleadings but the amendments that are make out by way of alteration or by way

of incorporation even otherwise by way of amendment. Rather whenever the amendments are permitted, it is the applicant who has to prove their pleadings and they are under the obligation to prove their pleadings by providing with suitable evidence in support of their pleadings. As such, whenever the said application is made out for amendment of the pleadings, the said application if denied and not permitted, the very purpose and purport of the act does not serve and achieve the inception of the very provisions. Rather on the other hand if the application is not allowed and amendment is denied, in that event, even if the applicant succeeded in this suit, they would go by and rendered remediless and it may leads to curtailing and obliterating their part of legal obligations.

**14.** Further whenever any applications for alterations, modifications or changes are preferred and approaches through the application, the said application cannot be viewed so stringently and with pedantic rather they are to be considered liberally and with simple approach. Further, mere and simply permitting the applicant to rectify and amend the pleadings that would itself cannot inure and fruitful to the applicant, but it is again the liability and the responsibility which is saddled, cast and bourne upon the person who prefers this application to express themself to lead all sort of evidence, to convey evince and to enable the court to justify

their pleadings as coated and professed through the application by way of proper cogent and supportive material piece of evidence. Hence, in the opinion of this court no prejudice would be caused in favour of the plaintiffs, if the amendment application is allowed and the applicant is allowed to alter the amendments in the plaint as requested in the application. Hence for the reasons discussed above, the said application is liable to allowed. Hence, this court without further discussion proceeds to answer **point No.1 in the affirmative.**

**15. POINT NO.2:**

In view of the above discussion and reasons mentioned therein this court proceeds to pass the following:

**ORDER**

The I.A. No.6 filed by plaintiffs under order 6 rule 17 R/w 151 of C.P.C. is hereby **allowed.**

Accordingly the applicants are permitted to amend their pleadings of plaint as prayed and sought for in the application and they are also directed to furnish the fresh amended plaint.

For amendment and amended plaint.

Call on: 28.06.2025

**(Chandan S)**  
**Prl. Civil Judge & JMFC.,**  
**K.R.Nagar.**