

KAMS500024862022



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Present : **Sri. Kamalaksha D., B.A., LL.B.,**
Senior Civil Judge & J.M.F.C.,
Nanjangud.

Dated this the 21st day of July 2025

O.S./160/2022

Plaintiff : N.Mahadeva Prasad
-V/s-

Defendants: Vatal Nagaraj and another

IX

Applicant : N.Mahadeva Prasad
.... plaintiff
(By Sri. J.M.A., Adv.)

-V/s-

Opponents : Vatal Nagaraj and another
... defendants
(By Sri. S.V., Adv.)

**ORDER ON I.A. IX UNDER ORDER
VI RULE 17 OF CPC**

The plaintiff filed this application seeking permission of the court to amend the plaint to insert some more properties in the plaint as stated in the application.

2. In the affidavit it is sworn that, the proposed amendment is very much required to carry out in the plaint, because the said properties are also part and parcel of the family of the plaintiff and defendants. Suppose the application is not allowed, it would definitely cause hardship to the plaintiff, because it will avoid the plaintiff to get share in the proposed properties. So, he prays to allow the application.

3. On the other hand the defendants No.1 and 2 filed objections stating that the application cannot be allowed at this stage, because evidence of the plaintiff has been already commenced. The proposed properties are not the joint family properties. Suppose the application is allowed,

it would cause inconvenience to the defendants. Hence, prayed to reject the application.

4. Heard the arguments. Perused pleadings and materials placed on record. The points that arise for my consideration are:

1. Whether the plaintiff has made out grounds to amend the plaint as prayed in the application?

2. What order ?

5. The above points are answered as follows :-

Point No.1 : In the affirmative

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

REASONS

6. **Point No.1** :- It is to be noted that, the defendants No.1 and 2 just denied that the proposed properties are not joint family properties. However, the said fact is to be proved in the trial, but not at this stage. Suppose the plaintiff has property right over the proposed properties,

the amendment has to be carried out, otherwise it will avoid getting his pre-existing right upon the scheduled property. On the other hand, if the application is allowed it will not cause any hardship to the defendants No.1 and 2. It is further objected that, the application cannot be allowed at this stage, because already evidence has been commenced. However, the rule of rejection of amendment application after commencement of evidence is not strict and ultimate rule, because the amendment application can be allowed even after commencement of evidence subject to proof that the applicant in spite of due diligence could not notice the missed facts. Therefore, even after commencement of the evidence amendment application can be allowed. Hence, **point No.1** is answered **in the affirmative**.

7. **Point No.2:-** In view of the findings on the above points, this Court proceeds to pass the following:

ORDER

I.A.IX filed by the plaintiff under Order VI Rule 17 of CPC is allowed with no order as to cost.

The plaintiff is permitted to amend the
plaint.

(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 21st day of July 2025).

(Kamalaksha D.)
Senior Civil Judge & J.M.F.C.,
Nanjangud.