

IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC
NANJANAGUDU

PRESENT

Sri. Sathisha K.G., B.A.,LL.B.

Principal Civil Judge & JMFC., Nanjanagudu

Dated: 25th day of February, 2025

O.S.No.620/2015

PLAINTIFFS

- :: 1) Sri. Mahadevaswamy
 S/o Late Madappa,
 Aged about 44 years,
 2) Sri. Rajanna S/o Late Madappa,
 Aged about 40 years,

Both are R/at Mallarajaiahna Hundi
Village, Chikkaiahna Chatra Hobli,
Nanjangud Taluk.

- 3) Smt. Parvathamma
D/o Late Madappa,
W/o Late Shivanna,
Aged about 60 years,
R/at Alattur Village,
Chathra Hobli, Nanjangud Taluk.
- 4) Smt. Meenakshi
D/o Late Madappa W/o Guruswamy,
Aged about 57 years,
R/at Bookahalli Village,
Chathra Hobli, Nanjangud Taluk.
- 5) Smt. Komala
D/o Late Madappa W/o Gopal,
Aged about 51 years,
R/at Hosakote Village,
Chathra Hobli, Nanjangud Taluk.

(By Sri. KSM. Advocate)

- V/s -

DEFENDANTS :: 1) Sri. M.S. Nanjappa
S/o Late Siddamallappa
Aged about 60 years,
2) Sri. Nanjundaswamy
S/o Late Siddamallappa

Both are R/at Mallarajaiahna Hundi
Village, Chikkaiahna Chatra Hobli,
Nanjangud Taluk.

(By Sri. NSP. Advocate for D1)
(By Sri. MJS. Advocate for D2)

PARTIES TO IA.NO.-9

APPLICANT :: Sri. Mahadevaswamy
1st Plaintiff.

- V/s -

OPPONENT :: Sri. M.S. Nanjappa and another
Defendants.

Provision under which the application is filed	Under order 6 Rule 17 of CPC
Relief sought for	Amendment of Plaint
The date on which the application is filed	24.02.2022
Number of the application	IA.No.9
The date on which the objections are filed by different opponents	24.05.2022
The date on which the orders were passed on the said application	25.02.2025

ORDER ON I.A.No.9 FILED BY THE PLAINTIFFS

U/O.IV RULE 17 OF C.P.C.

The plaintiffs have filed this suit against the defendants for

the relief of Declaration and consequential relief of Permanent Injunction and for such other reliefs that the Court may grant deem fit.

2. When the matter is set down for arguments, the plaintiffs have filed this application U/O.VI Rule 17 of C.P.C., seeking leave of the Court to amend the plaint as follows;

After the word father Sri.Mallappa had further "The suit schedule property has been granted to plaintiffs Great Grand Father Sri. Siddamallaiah on 21.10.1981 by the Special Thasildhar, Nanjanagudu and to that effect issued Form No.10"

In page No.6 after the relief (a) ADD further relief as "(aa) If the Hon'ble Court comes to the conclusion that plaintiffs are not in possession after the suit schedule property alternative and practical relief of possession also"

3. In the affidavit filed in support of application, the 1st plaintiff has stated that he has obtained Form No.10 i.e., Grant Certificate issued to his Great Grand Father Sri.Siddamallaiah recently. After obtainign the same he has produced before this Hon'ble Court and marked as exhibits also. In order to put forth the truth it is just and necessary to amend the plaint. He further stated that he is in possession of the suit schedule property, the

defendants behind his back got changed the khatha pertaining to the suit schedule property and the said alleged change of khatha never creates any rights to the defendants. Since the khatha in the name of defendants, if the Hon'ble Court comes to the conclusion that he and other plaintiffs are out of possession then it is just and necessary to seek the alternative and practical relief of possession. In order to adjudicate the dispute once for all and to avoid multiplicity of proceedings the said proposed amendment is necessary and said amendment never changes the cause of action and never alter the suit. Hence, he sought for allow the application.

4. After receipt of application, the 2nd defendant has filed objection to the application by contending that when the suit is posted for arguments on merits and after completion of evidence of both the parties this application is filed. The matters now sought to be included are within the knowledge of plaintiffs and they are not diligent in seeking amendment. There is no prayer regarding possession to the suit schedule property. Hence, the question of seeking practical relief of possession without prayer is not maintainable. Hence he sought for rejection of application.

5. For disposal of application, the following points arise for consideration:-

i) Whether the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties?

ii) What order?

6. Having heard the arguments.

7. My findings to the 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:-** Admittedly, in the present case plaintiffs sought the relief based on the pleadings already pleaded. In so far as inserting additional para and alternative prayer would not change the nature of the suit and cause of action and no way prejudice to the defendants. By inserting additional para and prayer as sought in the I.A. would not in any way cause harm to the defendants and the plaintiffs have to prove said facts as and relief as sought in the suit.

9. Order VI Rule 17 C.P.C., confers jurisdiction on the Court to allow either party to alter or amend his pleadings at

any stage of the proceedings and on such terms as may be just. Such amendments as are directed towards putting forth and seeking determination of the real questions in controversy between the parties shall be permitted to be made.

10. While considering whether an application for amendment should or should not be allowed, the Court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merits of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment, as the same is to be adjudged on the weight of the evidence led during the course of trial.

11. It is the cardinal principles of law as enumerated under Order VI Rule 17 of C.P.C., that, the parties should be allowed to present the effective pleadings before the Court, so as to adjudicate the matter in dispute and also, they be permitted to complete the pleadings so as to adjudicate the matter and grant the relief entitled in a single trial and without pushing the parties for multiple rounds of litigations. Having

regard to the sound principles covered for consideration of amendment applications, this court is of the opinion that, since the plaintiffs have already made substantial pleadings and now proposed to be sought is only seeking to insert additional para regarding grant of suit schedule property in the name of their Great Grand Father and also sought for additional alternative prayer for practical possession and thereby the proposed amendment does not change the nature of the suit or does not change the cause of action and thereby in any way, it would not cause any prejudice to the defendants. With these observations, this court holds, the proposed amendment would not in any way take away the vested rights of the defendants. Further, at this stage court cannot be considered that, whether plaintiffs are entitled for relief of Declaration and consequential relief of Permanent Injunction and it can be considered on merits of the suit. In view of the foregoing discussion, the Point No.1 raised above for consideration is answered in the **Affirmative.**

12. **POINT NO.2:-** In the light of above discussion, this court proceed to pass the following:-

ORDER

The I.A.No.9 filed by the plaintiffs
U/O.VI Rule 17 of C.P.C., is hereby allowed.

The plaintiffs are permitted to bring the
proposed amendment in the plaint.

The plaintiffs are directed to carryout
the amendment and to file amended plaint.

(Dictated to the Stenographer directly on computer, typed by him, the same
is corrected, revised, signed and then pronounced by me in the open Court, on this
the **25th day of February, 2025**)

(SATHISHA K.G.)
Principal Civil Judge & JMFC,
Nanjanagudu.