

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: 26th day of March, 2025

O.S.No.552/2023

PLAINTIFF :: Sri. Madanaika S/o Narayananaika,
Aged about 77 years,
R/at Tagadur Village, Biligere Hobli,
Nanjanagudu Taluk.
(By Smt. M.S. Poornima. Advocate)

- V/s -

DEFENDANTS :: 1) Sri. Muddumadanaika
Aged about 70 years,
2) Sri. Naganaika,
Aged about 68 years,
3) Sri. Mahadevanaika,
Aged about 65 years,
4) Sri. Rameshnaika,
Aged about 50 years,

All are S/o Late Karinaika
All are R/at Tagadur Village,
Biligere Hobli, Nanjanagudu Taluk.

(By Sri. M.J. Sethu Rao. Advocate)

PARTIES TO IA.NO.2

APPLICANT :: Sri. Sri. Madanaika - Plaintiff

- V/s -

OPPONENTS :: Sri. Muddumadanaika 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	01.08.2024
Number of the application	IA.No.2
The date on which the objections are filed by different opponents	12.12.2024
The date on which the orders were passed on the said application	26.03.2025

ORDER ON I.A.No.2 FILED BY THE PLAINTIFF

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

The plaintiff has filed this suit against the defendants for the relief of Permanent Injunction and for such other reliefs that the Court may grant deem fit.

2. When the matter is set down for hearing on IA.No.1, the plaintiff has filed this application U/O.VI Rule 17 of C.P.C., seeking leave of the Court to amend the plaint as follows;

Delete the 5th Line in 4th Para

“Suit for Declaration and Possession and also Mandatory Injunction” and ADD “Suit for Permanent Injunction”

3. In the affidavit filed in support of application, the plaintiff has stated that due to Typographical error it has been

typed as Mandatory and Declaration instead of Permanent Injunction in 4th Para of Plaint. 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 defendants have filed objection to the application by contending that application is not maintainable either under law or on facts. By way of amendment this suit cannot limit for bare injunction only and no grounds are made out. Hence, they 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 plaintiff sought the relief based on the pleadings already pleaded. In so far as delete the word “Declaration, Possession and also Mandatory Injunction” by inserting “Permanent Injunction” would not change the nature of the suit and cause of action and no way prejudice to the defendants. By inserting Permanent Injunction as sought in the I.A. would not in any way cause harm to the defendants and the plaintiff has 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 plaintiff has already made substantial pleadings and now proposed to be sought is only seeking to insert Permanent Injunction in 4th Para 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 way

the vested rights of the defendants. Further, at this stage court cannot be considered that, whether plaintiff is entitled for 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.2 filed by the plaintiff U/O.VI Rule 17 of C.P.C., is hereby allowed.

The plaintiff is permitted to bring the proposed amendment in the plaint.

The plaintiff is 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 **26th day of March, 2025**)

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